



Development Control Committee

8th October 2009

Report of Head of Planning and Building Control, Regeneration

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2	25	09/1064/RM	SERVIS GROUP LTD, DARLSTON ROAD, WALSALL	Reserved matters application sought to discharge the reserved matters relating to the siting, design and external appearance of the buildings, and the landscaping of the site, as set out in Condition 2 of the outline planning permission 07/0693/OL/W5.	Approve Reserved Matters with Conditions
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4	58	08/1832/FL	BROADWALK RETAIL PARK, BESCOT CRESCENT, WALSALL	Variation of condition 5(c) of planning permission reference BC42920P - (restricting the range of goods to be sold) to allow for food sales from a maximum floor space of 1941.75 sq m in a maximum of 2 units, 1 and 2a.	that had members got the jurisdiction to determine the application, they would refuse the applications as set out
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7	88	08/0894/FL	HOOTYS SUPPLIES (WHOLESALE) LTD, LONGACRES INDUSTRIAL ESTATE,ROSE HILL, WILLENHALL, WV13 2JX	Variation of Condition 3b of BC47202P to allow longer opening hours on Fridays (09.00 to 21.00)	Refuse, Enforce & Prosecute
8	96	09/0809/FL	43 BOUNDARY COURT, BOUNDARY ROAD, STREETLY, WALSALL, B74 2JR	Change of use from A1 (Shops) to A5 (Hot Food Takeaways)	Grant Subject to conditions
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11	117	09/0980/FL	THE LION HOTEL,UPPER LICHFIELD STREET, WILLENHALL, WV13 1PB	Splitting of existing unit into one smaller unit with alterations to shop front	Grant Permission, unless additional information is received which raises material planning issues.
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13	129	07/1438/FL/W3	59, 60 and 61 WOLVERHAMPTON STREET, WILLENHALL, WV13 2NF	Three storey extensions and alteration to shopfront at no. 61	Grant Subject to conditions
14	130	08/1932/CC	60 WOLVERHAMPTON STREET, WILLENHALL, WV13 2NF	Demolition of no.60 Wolverhampton Street to facilitate proposal under planning application no. 07/1438/FL/W3	Grant Cons. Area Cons
15	138	09/0749/OL	LAND CORNER OF BLOXWICH ROAD/ BLAKENALL LANE, BLOXWICH	Outline: Erection of new building for Class C2 (residential/nursing home) purposes (details to include access, appearance, layout and scale)	Grant Permission Subject to Conditions and a Planning Obligation
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18	177	09/1067/FL	2 MANDERVILLE GARDENS, WALSALL, WS1 3AT	Retain Boundary Wall	Refuse
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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0617/FL

Application Type: Full application

Applicant: Mr P Stone

Proposal: Demolition of existing shops/flats and construction of 13 new 2 bed flats and 1 flat for person with disabilities with associated carers accommodation.

Ward: Paddock

Case Officer: Barbara Toy

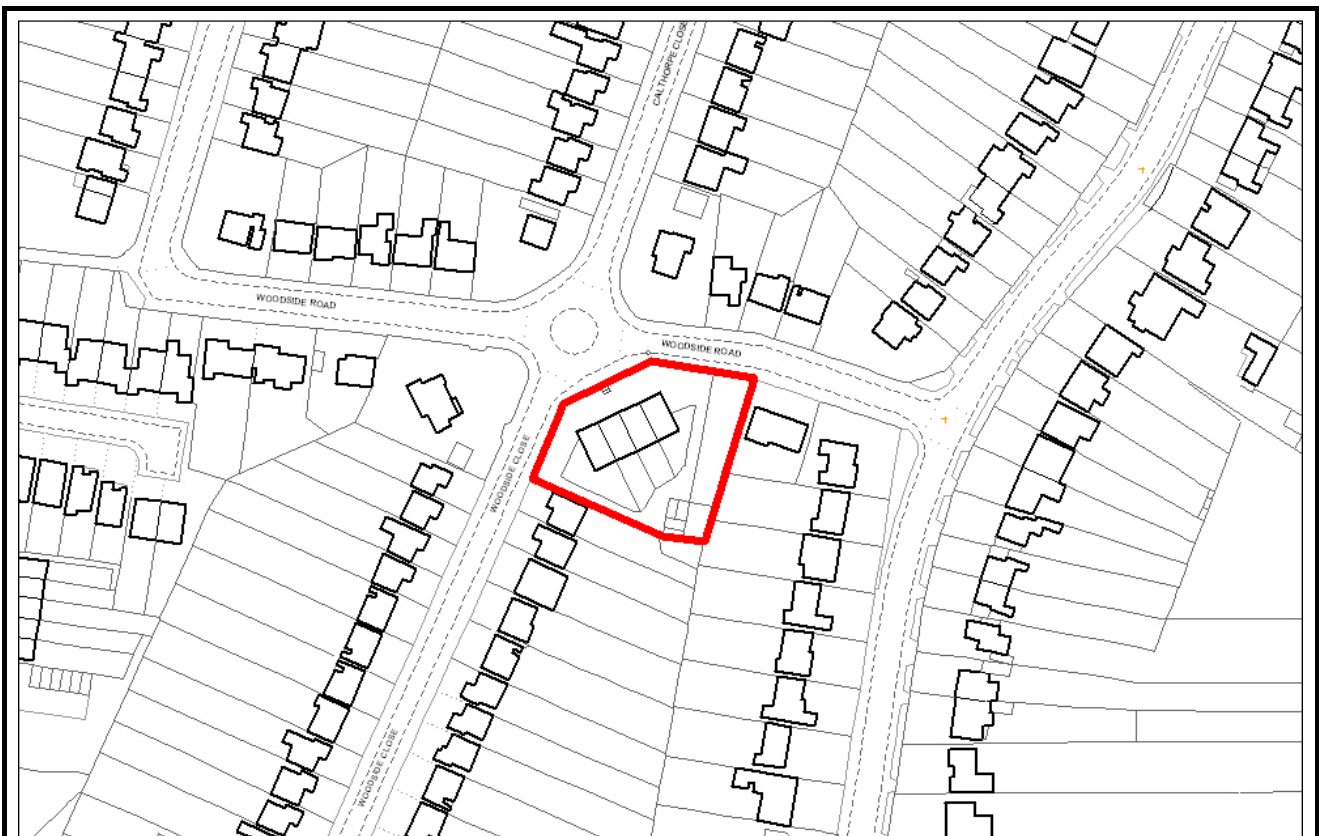
Telephone Number: 01922 652429

Agent: Spooner Architects

Location: 1 WOODSIDE
CLOSE, WALSALL, WS5 3LU

Expired: 30/10/2009

Recommendation Summary: Grant Permission Subject to conditions, providing that no further representations are received that raise new material planning matters



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Application and Site Details

The site is situated on the southern side of Woodside Road on the corner of Woodside Close. The site comprises an existing two storey building with a pitched roof set at an angle across the corner of the junction opposite a small traffic island. The building was originally constructed as four retail shops with living accommodation above but has subsequently been converted for entirely residential purposes. The frontage of the site has an extensive tarmac surface used for off-street parking. There is an MEB sub-station to the east of the site fronting Woodside Road and there is a vehicular access to a detached double garage at the rear of the application site alongside this. There is a large mature oak tree within this area adjacent the boundary with Skip Lane properties and a large beech tree within the garden of 56 Skip Lane. An amenity area for the existing residential accommodation is set to the rear of the building. The site is located in a residential area surrounded by predominantly larger detached houses set within generous building plots.

This application is a resubmission following refusal of two previous applications for 16 one and two bed apartments and 15 two bed apartments. Both applications were taken to appeal and were both dismissed by a Planning Inspector.

The original submission proposed the demolition of the existing buildings and construction of 14 x 2 bed apartments and 1 x 1 bed apartment, within a two storey block with drive through access to rear parking area. The scheme included relocation of the electricity sub station to the frontage, 17 parking spaces, including 1 disabled space on the frontage, cycle storage beneath the drive through and refuse storage area to the rear.

An amended scheme was submitted (31-07-09) proposing demolition of the existing buildings and construction of 13 x 2 bed apartments and 1 apartment specifically designed for persons with disabilities with carer's accommodation above. This scheme introduces a further 3 parking spaces on the frontage (2 off Woodside Close and a further space off Woodside Close) providing a total of 20 parking spaces. The scheme also introduced an amended elevation to Woodside Rd (incorporating gable features), a relocation of the refuse store closer to the highway, cycle storage on the frontage and a wider footpath around the frontage of the building to provide access for all.

A further amended scheme was submitted (17-09-09) which is the scheme now put forward for consideration. The scheme remains for the demolition of the existing buildings and erection of 13 x 2 bed apartments and 1 apartment specifically designed for persons with disabilities with carer's accommodation above. The accommodation would be provided in a two storey building that follows around the corner, set back between 7m and 9m the back of pavement. The building provides dual aspect apartments in a building approx 11m in depth and with a maximum height of 8m. A traditional building design is proposed incorporating gable features, bay windows and front door canopies, with facing brickwork and a pitched tiled roof.

The main vehicle access would pass beneath the first floor accommodation and would be located adjacent to the electricity sub-station on Woodside Road. This would lead to a private car parking court at the rear which would have 16 parking spaces (including two disabled space). One further parking space would be provided on the frontage to the left of the access, providing a total of 17 spaces. The access would be gated with bin storage facilities for the entire development provided within the drive through area. Secure cycle

storage has been relocated to the rear of the building. Shared private amenity space is located at the rear between the parking spaces and rear elevation of the building. There is also a landscaped strip between 3.2m and 4.6m deep in front of the building.

One disabled parking space would be provided immediately to the rear of the apartment designed for persons with disabilities and the unit's primary entrance would be located on the rear elevation for ease of access.

The access drive would have a gradient of 1:12 in order to address the difference in levels between the road and the site. A further pedestrian access ramp would be provided around the frontage parking space to provide wheelchair access, which would have a gradient of 1:18.

The electricity sub station would be set at a low level on the site frontage behind the front boundary (retaining) wall and railings.

The site area is 0.16 hectares which gives a density of 87 dwellings per hectare.

A Design and Access Statement and a Bat Survey have been provided in support of the application. The Design and Access Statement advises that the scheme addresses the issues raised by the Inspector in the previous appeal decision, providing a two storey development that would not dominate the traffic island or undermine the integrity and cohesiveness of the existing estate. The bat survey concludes that there was no evidence of bats observed during the inspection and the development of the site is unlikely to have an impact upon bat populations.

Relevant Planning History

Between 1992 and 2001 there were various applications for extension and change of use of the former retail premises and for change of use from retail premises to residential units.

In 2003 application 03/0360/FL/E4 for erection of a 2 bed bungalow and detached double garage on land at the rear of sub station adjacent 1A Woodside Road was refused outline permission. The reasons given were that it was overdevelopment of the site leading to loss of trees, insufficient privacy and amenity space for future occupiers and it was situated at the rear of surrounding properties which was out of character with the surrounding area.

04/2393/FL/H4 - Construction of Garage (1 Woodside Close) – Granted Subject to Conditions 14/12/04

07/0774/FL/E11 - Erection of 16 one and two bedroom apartments – Refused 12/7/07.
Reasons for refusal:

1. The design of the proposed development is inappropriate in the area in that it fails to respect the local character in terms of fenestration, including; lack of bay windows, cat slide roof and the scale of the proposed dormers. Furthermore, the frontage parking is visually intrusive within the street scene and the outlook from the proposed dwellings due to the lack of soft landscaping and proximity of the parking spaces to the building.
2. The development would result in unacceptable demand on limited educational capacity and public open space provision in the locality in the absence of any financial contributions to address the shortfalls.

Subsequent appeal dismissed 21-05-08 because of the unacceptable adverse effect on the character and appearance of the area in failing to take account of the context and surroundings and compromise the quality of the local environment.

07/1815/FL/E11 – Erection of 15 x 2 bed apartments – Refused 15-10-07.

Reasons for refusal:

1. The proposal would appear incongruous in the street scene due to its three storey appearance, design and scale; and the lack of adequate parking provision would lead to unacceptable on street parking.
2. The development would place undue pressure on limited education and public open space provision in the locality.

Subsequent appeal dismissed 21-05-08 because of the unacceptable adverse effect on the character and appearance of the area in failing to take account of the context and surroundings and compromise the quality of the local environment.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Walsall's Unitary Development Plan (2005)

Paragraphs 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement, with action to include creating, sustaining and enhancing a high quality natural and built environment, including a high standard of design, and providing for the right number, type and distribution of new homes.

GP2: Environmental Protection

The Council will not permit development which would have an unacceptable adverse impact on the environment.

Policy 3.6 seeks environmental improvement resulting from development.

Policy 3.9 high priority will be given to maximising the re-use and reclamation of derelict and previously developed land.

Policy 3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

GP3: Planning Obligations

These will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety

Proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved and that the development would not unacceptably constrain the development of any adjacent site.

H9: Minimum Densities

DW3: Character - all new development must be designed to respect and enhance local identity

DW4: Continuity - Well defined streets with a continuity of built form are important.

DW5: Ease of Movement – connections to existing routes

DW6: Legibility - new development should contribute to creating a place that has a clear identity

DW7: Diversity – contribute to creating living places that offer a mix activities to the widest range of possible uses

DW8: Adaptability – contribute to creating flexible and adaptable places that can easily change over time.

DW9: High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality

DW 10: Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Urban Open Space (SPD) (April 2006)

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

Education SPD

Sets out the contributions that developers will be required to make towards the provision and improvement of local education facilities.

Regional Spatial Strategy

The Regional Spatial Strategy for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance.

National Policy

PPS1: Delivering sustainable development emphasis the need to reject poor design and the need for sustainable development.

PPS3: Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

PPG13: Transport, promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility of jobs, services and transport choices and to reduce travel, especially by car. Local Authorities

should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances, for example where there are significant implications for road safety which cannot be resolved through on-street parking controls.

PPS23: Planning & Pollution Control advises a Precautionary approach of a 5m exclusion zone around substations, transformers etc.

Consultations

Transportation – No objections subject to conditions relating to access, layout and Travel Planning. The revised scheme shows 17 parking spaces for 13 flats plus 1 flat for disabled persons with carer's accommodation (14 units in total). This equates to 121%. Policy T13 would require 21 spaces therefore the proposal are 4 spaces short. Consideration has been made of the Appeal Inspector's decision for the two previous schemes on this site. Whilst the original scheme provided 150% the second scheme provided 131%, the Inspector concluded that highway safety would not be unduly affected as there are no on-street parking restrictions, there is a high level of on-site parking in the locality and any parking problems could be resolved by the introduction of parking controls.

In terms of sustainability of the site in so far as accessibility to local services and public transport are concerned the Appeal Inspector noted the distances to the nearest shopping centre (1.1km) and bus stops in Birmingham Road and Skip Lane yet concluded that the site was not in an unsustainable location. The distance to bus stops with frequent services is considerably above the maximum distance of 400 metres required by policy T12. It is approximately 700-800 metres to the bus stops in Birmingham Road near Walstead Road junction where the 51 service runs every 10 minutes. However, in light of the recent appeal decisions an objection on this basis would be considered unreasonable. Re-use of the existing access off Woodside Road is acceptable. The redundant crossing in Woodside Close should be reinstated subject to statutory requirements.

The proposals would utilise the existing access off Woodside Road and the redundant crossing in Woodside Close would be reinstated. The scheme now includes a disabled access ramp to serve the development at a 1:18 gradient, whilst slightly below the 1:20 gradient preferred it is significantly better than the 1:12 gradient maximum gradient recommendation.

Pollution Control (Scientific Team) – No objections in principle, providing measures are put in place to address noise issues arising relating to the electricity sub station. Safeguarding conditions recommended.

Pollution Control (Contaminated Land Team) – No objections subject to works being carried out to investigate and remediate any localised ground contamination and ground gas issues associated with the historic filled ground from a former pond or marsh. Details are required prior to commencement of any development.

Environmental Health – No adverse comments.

Landscape Officer – Objects. No landscape scheme has been provided and in the absence of landscape details for planting, paving and boundary treatment it is impossible to accurately assess the impact. These details should form part of the application and not be a condition on any approval. The proposed siting of the sub station in such a prominent location at back of pavement will be very obtrusive and will impact on the existing and future resident's amenity.

Arboricultural Officer – No objections subject to replacement tree planting. The proposals would mean the loss of trees on site, however, they are of little merit and replacement tree planting would mitigate their loss.

Natural Environment – The updated bat report of 14-07-09 is satisfactory and there are no ecological reasons for the refusal of this application. Conditions required to ensure bat roosting features are incorporated and to control external lighting to avoid disturbance to the local bat population.

Urban Design – No objections. The proposals would replace existing flats and shop, therefore the form of the proposal is not dissimilar in respect to this site, although the immediate surrounding area is predominantly characterised by houses. The massing of the development reflects the surrounding development of two storeys, however, and maintains the building line of the street with enclosed amenity space to the rear of the building. The proposals enclose the front of the site to a greater degree, allowing less opportunity for tree planting or mature landscaping to develop between the proposal and 5 Woodside Close, however on balance this is not significant enough a reason to warrant a refusal in this case.

Walsall Children's Service - Serco – A contribution to both secondary and primary school provision would be required in this area. However in this case notice has been taken of the comments made by the Planning Inspector in the previous appeal decision regarding financial contributions and a reassessment of the application has been made and in light of this a contribution is no longer required.

Housing Strategy – No objections. The development is below the affordable housing threshold. The application is supported as it provides 2 bedroom flats and a disabled adapted flat which is welcomed.

National Grid – No objections as negligible risk to networks.

Fire Service – No objections as there is satisfactory fire service access.

Police Architectural Liaison Officer – No objections in principle. Support the proposal to gate the access to the car park subject to details of their design to afford views in and out of the area and for them to be self closing and locking to ensure security levels are maintained at all times.

Environment Agency – No objections as there is a low environmental risk.

Building Control – No objections. Notification of demolition to Building Control would be required.

Public Participation Response

Forty six letters of objection to the original proposals (including Councillors Martin and Sanders and the local neighbourhood watch representatives) and a petition with 116 signatures have been received which are summarised as follows:

- Insufficient parking leading to on street parking
- Increased traffic and congestion, and restriction of access for emergency services
- Overdevelopment of the site
- A large building that will dominate the area and adjacent traffic island
- Little difference to the previous refusals, 'cosmetic changes'
- Out of character with the area that is predominantly detached houses
- High density of development in an unsustainable location
- Flats not needed in the area, already an over subscription
- Loss/damage to existing trees, including a TPO tree in rear garden of adjoining premises
- Loss of greenery
- Noise, pollution, nuisance and effect on privacy from the increase in vehicle movements affecting the equilibrium of the area and creating a security risk
- Lack of amenity space and play space for children
- Loss of privacy to adjoining occupiers from overlooking
- Overshadows adjoining properties
- Noise disturbance from use of rear car park
- Insufficient waste provision for the number of flats
- Undue pressure on local education, public open space, public art and affordable housing
- The proposals seek to maximise profit for the developer (*not a material planning consideration*)
- Previous inappropriate actions of the landlord (*not a material planning consideration*)
- The applicant has failed to engage with residents
- A previous application for a bungalow was turned down due to being out of character, affecting trees and loss of privacy
- The existing use of the block as 8 flats is unauthorised
- Eyesore
- Danger and inconvenience during building work (*not material planning consideration*)
- Local bus services limited and some distance from the site encouraging car use.
- Proximity of the repositioned substation to one of the dwellings
- Repositioned substation at back of pavement would destroy the existing street scene and be liable to damage
- Loss of cohesiveness of the area
- Set a precedent, further erosion of the character of the area
- No updated bat survey (*a revised survey has now been received*)
- Property devaluation (*not a material planning consideration*)

Positive comments expressed within objection letters:

- Pleased at the reduction from three storey to two storey, more in keeping with the surrounding area

- Design improvements
- Would welcome houses on the site instead of flats
- Happy to see the redevelopment of the site but current proposals inappropriate.

Re-consultation on amended plans has taken place. As a result a further 46 letters of objection and a petition with 172 signatures have been received which are summarised as follows:

- Little alteration to the plans 'watered down'
- Still 15 flats in effect
- Still over development of the site as scale, mass and size of the building is out of character with the surroundings
- Insufficient parking even though now has parking on the frontage against the recommendation of the Planning Inspector
- Damage/loss of trees
- Area does not have the infrastructure necessary to support another 14 families, schools, public transport, shops, parking – Park Hall School is already over-subscribed
- Flats not required and detract from surrounding character
- Still out of character, the area is predominantly detached houses
- Too high density that exceeds Council Policy H9
- Overbearing presence of the building dominates the roundabout and immediate area
- Makes a mockery of the previous appeal decision
- Loss of privacy to adjoining occupiers from overlooking
- Excessive height depriving natural light to adjoining properties
- Noise pollution and disturbance from the building works and end use
- Increased Traffic and congestion from on street parking, causing access problems for emergency services and problems at the roundabout especially in winter when roads are icy
- Health and safety issues and amenity issues of repositioned substation
- Disabled flat with carer's accommodation just a disguise for 2 flats
- No direct transport links
- Doesn't address the Appeal Inspector's findings that the design and character should reflect that of the surrounding estate
- Light pollution
- Design, visual appearance and materials out of keeping
- Still insufficient car parking and lack of visitor spaces
- Cluttered appearance of parking on the frontage
- Sets an unwanted precedent in the area
- Adverse impact on views from surrounding properties
- Sub-station is nearer to the road and increases danger and destroys the street scene
- No mention of the TPO Beech tree or its protection
- Parking beneath a retained tree may cause conflict and lead to pressure for pruning or removal
- Cosmetic alterations to the design of the front elevation are not adequate and include featureless facades
- Car parking on the frontage has previously been rejected by the Council

- The proposed development would devalue the area (*this is not a material planning consideration*)
- Failure of the applicant to engage with neighbours regarding the proposed development
- Insufficient amenity space shouldn't include the space at the front of the building as this is not functional
- Car park entrance immediately adjacent surrounding property where vehicle movements will affect privacy, noise and light pollution
- Legitimate parking outside neighbouring properties would restrict access to the site access
- The developer is seeking to get the highest return on their investment with development that is out of keeping with the established residential area

Positive comments expressed within objection letters:

- Welcome a development in keeping with the size and style of the local environment
- The design attempts to be more sympathetic to the surrounding properties
- Family houses with garages, drives and gardens needed not flats.

Residents have been further consulted on the second set of amended plans. As a result a further 29 letters of objection (including a letter from Councillor Martin) and a petition with 186 signatures have been received which are summarised as follows:

- Still 15 dwellings.
- Overdevelopment of the site in terms of size, scale, massing, number of units and over bearing appearance
- Out of character with the surrounding area
- The footprint of the building remains the same and too large for the site, providing a terracing effect
- Difficult to see the difference from the previous proposals, small changes to parking and access ramp are trivial.
- Significant increase in traffic, parking and congestion
- Unable to assess properly the height of the building due to its elevated position.
- How many times will residents be consulted on cosmetic or trivial adjustments.
- Countless amendments from the developer, trying to find a way through the system and still failing to address previous reasons for refusal. Delaying tactics.
- Previous objections stand
- Parking provision inadequate (conflicts with UDP Policy T13) which is likely to result in additional parking on street in the surrounding roads causing congestion and access problems for emergency services and danger to pedestrians.
- Narrow road unable to cope with increase in traffic and may cause parking on verges
- Loss of privacy to surrounding residents, light pollution and overlooking
- Inadequate bus service to cope with the development, this is an unsustainable location despite the comments of the Inspector and contrary to UDP policy T12.
- Loss or damage to mature trees and no mention of the TPO'd beech tree
- Fails to comply with the Appeal Inspectors comments
- Noise nuisance from increase in cars generally and particularly in rear car park and access
- Over development of flats in Walsall

- Substation re-siting unsightly and health and safety issues
- Developer failure to engage with residents and ignoring concerns from residents
- Loss of quietness for the area
- Create a precedent
- Insufficient amenity space shouldn't include the space at the front of the building as this is not functional
- The density of approx 90 dph fails to take account of the character of the area, more relevant to an inner city location
- Car park entrance immediately adjacent surrounding property where vehicle movements will affect privacy, noise and light pollution
- Legitimate parking outside neighbouring properties would restrict access to the site access
- The developer is seeking to get the highest return on their investment with development that is out of keeping with the established residential area
- Area does not have the infrastructure necessary to support another 14 families, schools, public transport, shops, parking – Park Hall School is already over-subscribed
- The appeal decision is a material planning consideration and any proposals must address the comments made
- Support to Councillor Martin's letter.

Positive comments expressed within objection letters:

- The overall design is better than the appeal schemes
- The area is in need of development
- No objections to 2 or 3 houses on the site

Any further representations received after the publication of this report will be reported to Committee in the Supplementary Papers.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

The Council is required to have full regard to the Inspectors previous findings as a material consideration in the determination of any future applications.

In this case the determining issues are whether the proposals overcome the previous reasons for refusal and the comments made by the Planning Inspector in dismissing the previous appeals, in respect of:

- Character of the Area and Appearance of the Street Scene
- Parking and Highway Safety
- Design and Scale
- Outlook
- Overdevelopment
- Demand on Education and Urban Open Space Provision

Observations

Character of the Area and Appearance of the Street Scene

The Appeal Inspector considered the key issues to be the height and perceived scale of the building that would be a prominent discordant feature within the established residential estate. Also, that car parking in front of the building would create a cluttered appearance within the street scene. He also considered that there was a sense of spaciousness at the roundabout junction and that a “nodal” development would undermine the integrity of the estate.

The latest proposals show a two storey building of traditional design incorporating gable features, bay windows and front door canopies, with facing brickwork and a pitched tiled roof. This reflects the design and character of surrounding housing. It no longer incorporates a third storey within the loft and this reduction in the height reduces the scale and massing of the proposed building. There is no change in building height at the junction. The Appeal Inspector was concerned that emphasis of this corner was not an appropriate design philosophy for the site. To address these concerns the current scheme proposes to retain space at the corner by setting the building further back and providing open amenity space in front of the building.

The individual elements of the building such as the gables, bay windows and canopies also assist in breaking up the massing of the building and are reflective of the character of surrounding housing. Inevitably the size of the building is greater than the present building on site and larger than individual surrounding houses. The overall reduction in the size, scale and massing has been achieved by reducing the height and altering the design to be more in keeping with surrounding properties. These changes are considered to address the Inspector’s concerns regarding the height and dominance of the building being discordant with the character of the surrounding area.

The Inspector considered that car parking in front of the building created a cluttered appearance. Whilst acknowledging that the area was already used for parking he considered the resultant harm to the street scene was exaggerated by the parking being sited in front of a larger more prominent building than currently exists. The current scheme now provides only one parking space on the frontage of the building, immediately to the left of the access drive and adjacent to the sub station. The remainder of the frontage would comprise a footpath link in front of the building and new landscaping, providing an open frontage.

The landscape officer is concerned that no details of planting or boundary treatment have been provided at this stage. The plan shows that there is space to accommodate landscaping. It is clear that provision has been made. In these circumstances it is acceptable to proceed on the basis that precise details can be secured prior to commencement of development. Similarly boundary treatments can be agreed at a later stage. A boundary wall and railings are clearly shown either side of the access drive to assist in screening the parking space, ramped access and the electricity sub station from full views from the street.

Parking and Highway Safety

The Inspector did not object to a provision level of 150% and 131% in respect of the two previous schemes. The Inspector stated that there was no substantive evidence that the

proposals would have significant implications on road safety which could not be resolved through on-street parking controls and highlighted PPG13 which states developers should not be required to provide more spaces than they themselves require, without good reason

There are 17 parking spaces (including 2 disabled spaces) shown throughout the site which equates to 121% provision. The proposal is 4 spaces short of the maximum 150% provision referred to by policy T13 for flats with shared communal parking. The number of spaces has been reduced in this latest scheme through the removal of all but one space on the frontage, as the Inspector considered that car parking on the frontage would create a cluttered appearance. There is provision for secure cycle storage that would encourage occupiers to consider alternative means of travel and a condition is attached to ensure the submission of a residential Travel Plan.

Although neighbours are concerned that there is insufficient on-site parking that would lead to on-street parking and cause congestion in the vicinity to the detriment of highway safety the Inspector's view is a material consideration and has been given considerable weight in determining whether the level of parking provision is acceptable. For the reasons referred to above the level of parking and means of access which utilises an existing vehicular access is considered appropriate.

The Inspector was concerned that parking beneath the canopy of an existing tree within the rear parking court would be incompatible and may damage tree roots or lead to pressure for its removal. However, this tree was not protected by Tree Preservation Order (despite the Inspector's misunderstanding on this matter) and has since been removed so the potential conflict between vehicles and this tree are no longer relevant. The Beech tree within the garden of 56 Skip Lane is covered by TPO (15/2007) but remains unaffected by the development.

Design and Scale

The design and position of the proposed building presents a continuous built frontage to both roads and respects the position of adjoining dwellings. The building is larger than that which it replaces and extends up to the boundaries of the site. However, this is not dissimilar to the pattern of development on surrounding housing that have minimal gaps between individual properties, albeit often single storey garages adjoin between properties allowing gaps at first floor although as individual properties extend, as allowed by policy, these gaps are gradually reduced.

The reduced height and amended design of the elevations now better reflects the character of surrounding properties and is therefore considered not to compromise the quality of the local environment.

The electricity sub-station would be relocated to the back of footway in Woodside Road to achieve greater separation to the nearest flat, which is now 4.75m away. The amended scheme now being considered shows the sub-station set below street level and screened by a retaining boundary wall and railings. The existing sub-station is already fairly prominent within the street scene as it is visible behind the railings enclosure. The revised proposals represent a satisfactory solution.

Outlook

The position of the proposed building does not project excessively beyond the front and rear elevations of the nearest dwellings in Woodside Close and Woodside Road and so would have no adverse impact upon outlook from these dwellings or lead to unacceptable overlooking resulting in loss of privacy. The outlook from properties adjoining the site will be different but given that separation distances are respected there are considered to be no adverse impacts upon outlook.

Over-development

The density of the development is 87 dwellings per hectare which exceeds the normal range of 30-50 dwellings per hectare referred to in policy H9 and PPS3 for a location of this sort. However, Government advice is to make more efficient use of land and buildings within urban areas which the proposals seek to do. The Appeal Inspector accepted that PPS3 states that imaginative design and layout of new development can lead to more efficient use of land without compromising the quality of the local environment. Over development results in designs which impact unduly on the character and amenity of the locality. The amended design approach addresses these concerns and demonstrates that overdevelopment of the site would not occur. The scheme is more reflective of the local character and surrounding area. The layout shows an appropriate building size and position that achieves separation distances, provides shared private amenity space and bin and cycle storage facilities to accord with Council requirements. Although parking provision is short this has been accepted by the Appeal Inspector. On balance therefore the accommodation provides a satisfactory layout that is considered not to be over-development.

Demand on Education and Urban Open Space Provision

Under the requirements of policies GP3, 8.8 and LC1 of the UDP and the SPD's for Education and Urban Open Space developers should, where appropriate, ensure provision and improvement of local education facilities and improvements to or provision of urban open space within the proximity of the application site on qualifying developments above the threshold of 10 units. In terms of education provision the level of surplus spaces in local primary and secondary schools is below 10% therefore a contribution towards these phases would normally be required. However, Walsall Children's Services – Serco has considered the Appeal Inspector's earlier decision where contributions were calculated on the net increase in the number of dwellings, which is relatively small, and has recommended that no contributions are collected in this specific case. Similarly the Inspector commented on the net increase in dwellings in relation to calculations for an Urban Open Space contribution and concluded that no Urban Open Space contribution was payable. The SPD is silent on the issue of net increase in units in a redevelopment scheme and in this particular case regard must be taken of the Inspectors comments. It is therefore recommended that no Urban Open Space Contribution be collected.

Other matters

The updated bat report submitted is considered satisfactory and there are no ecological reasons for the refusal of this application.

The proposed layout shows an adequate size refuse bin storage facility for the development. The applicants have also provided details from a private waste management company, who would be employed to operate waste collection from the development.

Concerns that the applicant has failed to engage with residents is not a material planning consideration and there is no statutory requirement for the applicant to consult with residents. The Council has however carried out all the necessary consultations regarding the proposals and subsequent amendments.

It has been alleged that the existing use of the block as 8 flats is unauthorised. This is being investigated by Enforcement, but is irrelevant to the determination of this application for redevelopment of the site.

The disabled flat with carer's accommodation has been criticised by residents as a disguise for 2 flats. The ground floor unit has been specifically designed to be accommodated by a person with a disability requiring wheelchair facilities, the carer's accommodation above would have a direct link into the accommodation below to provide 24 hour access.

Conditions are attached to ensure that details of any external lighting are submitted for approval prior to commencement of the development to ensure no light pollution to the surrounding occupiers and to avoid disturbance to the local bat population.

Each application is dealt with on its own merits and no precedent for the development of further blocks of apartments on street corners in the locality would be set by the approval of this proposal.

Summary of Reasons for Granting Planning Permission

The Council has had full regard to the Appeal Inspectors findings in the appeal decision issued on 21st May 2008, as a material consideration in the determination of this application.

The parking provision is 4 spaces short of that required by policy T13 of the UDP. The Appeal Inspector accepted that there was a high level of on-site parking in the area and that any parking problems could be covered by parking controls as there are currently no parking restrictions on street. The Inspector concluded that this site was not an unsustainable location for apartments. Previous concerns regarding traffic and congestion were therefore accepted on the earlier schemes by the Inspector and the current proposals provide satisfactory provision for disabled parking, cycle storage, refuse storage and an adequate level of parking that is secure and well observed.

The proposed relocation of the sub-station would be screened from the road and adjoining properties by a retaining wall and railings. Measures are recommended to protect health and address noise issues. There are no objections from Central Networks.

There is space to accommodate landscaping throughout the site, including the front elevation and an adequate amenity space is provided to the rear. There would be no adverse impact upon the TPO tree in the garden of 56 Skip Lane. A satisfactory bat report has been received and measures proposed to conserve the local bat population. Ecological matters have therefore been satisfactorily addressed.

The proposals are below the threshold for public art, health or affordable housing contributions to address any identified shortfall in provision, as referred to in the Council's Supplementary Planning Documents. Having taken into account the comments of the Appeal Inspector on the previous schemes, Walsall's Children's Services – Serco has not requested a contribution towards local school provision and a contribution towards Urban Open Space is not required in this particular case.

The density of the scheme is acceptable as the layout and design are in keeping with the surrounding context and the provision of apartments provides a housing mix to the area. The scale and massing of the building is now two storey and in keeping with, and has a satisfactory relationship with the surrounding dwellings, avoiding any adverse impact upon the amenity of adjacent residents. It is considered to respect the character of the locality.

Only one car parking space has been included on frontage of the building with landscaped areas on the remainder of the frontage. This coupled with the reduction in the scale of the building reduces the overall visual impact of the development on the street.

The proposals provide only six additional units to the site, which will not provide a significant increase in noise and pollution over and above the existing situation. However any additional activity will increase surveillance and reduce security risks.

Whilst the applicant chose not to consult with local residents the Council has carried out all the necessary consultation regarding the proposals and subsequent amendments.

A previous application for a bungalow set to the rear of the existing shops/flats (that would remain) was refused for overdevelopment of the site leading to tree loss, insufficient privacy and amenity space, impact on surrounding occupiers and out of character with the surrounding area. This scheme provided a completely different set of circumstances to the current proposals.

The existing use of the block as 8 flats whether authorised or not is irrelevant to the redevelopment of the site.

The scheme will provide 14 flats, including a flat especially designed for wheelchair access and occupation by a person with disabilities, the first floor above will provide accommodation for a carer, to provide 24 hour access and care.

In light of the above it is considered that the current proposals have addressed the earlier reasons for dismissing appeals for development of the site. For these and the above reasons the proposals are considered to comply with policies 2.1, 2.2, 3.6, GP2, GP7, 3.9, 3.16, ENV13, ENV14, ENV32, H3, H9, H10, T7, and T13 of Walsall Unitary Development Plan, Supplementary Planning Documents: Designing Walsall and the Regional Spatial Strategy for the West Midlands (RSS).

Recommendation: Grant Permission Subject to conditions, providing that no further representations are received that raise new material planning matters

1. This development must be begun not later than 3 years after the date of this decision.

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may be otherwise be required by conditions: -

- Location Plan (0910-09) received 19-05-09
- Proposed Ground Floor Plan/Site Plan (0910-02 Rev J) received 18-09-09
- Proposed First Floor Plan and Rear & Side Elevation (0910-03 Rev E) received 17-09-09
- Proposed Roof Plan (0910-08 Rev E) received 17-09-09
- Proposed Front Elevation & Elevation to Woodside Close (0910-04 Rev C) received 17-09-09
- Proposed Elevation to Woodside Road (0910-05 Rev E) received 17-09-09
- Existing Site Sections (0910-06) received 19-05-09
- Proposed Site Sections (0910-07 Rev B) received 17-09-09
- Elevations to Woodside Road (at Back of Pavement) (0910-10 Rev C) received 17-09-09
- Dimensional Survey (0569.01) received 08-05-09
- Amended Design & Access Statement prepared by Spooner Architects dated 20th May 2009, Addendum to Design & Access Statement dated 10th August 2009 and further Addendum to Design and Access Statement dated 17-09-09.

Reason; To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. No demolition, construction, or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: In the interests of the amenity of the surrounding residents of the proposed development.

4. The first floor accommodation above the apartment designed for persons with disabilities and wheelchair access shall be occupied by a carer only in association with the ground floor use and shall not be occupied independently.

Reason: In order to define the permission and provide satisfactory accommodation.

5. The development shall not be occupied until a survey has been undertaken in respect of noise from the adjoining electricity substation to the written satisfaction of the local planning authority. The results of this survey, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the local planning authority within 2 months of completion.

Reason: In the interests of the amenity of surrounding residents.

6. No development shall take place until any necessary suitable noise mitigation measures to protect internal areas (arising from the outcome of condition 5.) have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented and thereafter retained.

Reason: In the interests of the amenity of surrounding residents.

7. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

8. No development shall commence on site until details of a landscaping scheme, including hard surface materials, boundary treatment, spatial arrangement of proposed soft landscaping, including species, numbers and size of all shrubs and trees, topsoil depths and specifications and staking details of proposed trees as well as any necessary phasing of implementation, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: To preserve and enhance the visual amenities of the locality and natural environment of the area.

9. No development shall commence until proposals to incorporate bat roosting features into the proposed building have been submitted to and approved in writing by the Local Planning Authority. The approved proposals shall be incorporated into the development before any part of the development is brought into use and retained thereafter.

Reason: To conserve local bat populations.

10. No external lighting shall be installed on the site or the building without the prior agreement in writing of the Local Planning Authority. Any proposed external lighting shall be low level high pressure sodium with UV filters and directional shrouding or shields to prevent light spillage. Floodlighting shall be avoided except at the front of the building. Any approved lighting shall be implemented in accordance with the agreed details and maintained thereafter unless the Local Planning Authority agrees in writing to any variation.

Reason: To avoid disturbance of local bat populations, protect visual amenities and in the interests of community safety and residential amenity.

11. No development shall be carried out until a schedule of facing materials to be used in external walls and roofs of the development and the surrounding garden walls and other structures and boundary treatments (including details of the gates to the secure parking areas), has been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

12. No development shall be carried out unless and until arrangements have been made for the satisfactory drainage of the site, in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the area.

13. The development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

Reason: In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policy GP2 of the Walsall Unitary Development Plan

15. Prior to the first occupation of the proposed development all parking, accesses and manoeuvring areas shown on the approved plan shall be fully consolidated, surfaced and drained. The car parking bays shall be clearly demarcated on the ground and thereafter retained for this purpose.

Reason: To ensure the satisfactory provision of parking areas.

16. Prior to commencement of any development on site a Framework Residential Travel Plan, drawn up in conjunction with the Council's Sustainable Travel Officer, shall be submitted for approval in writing by the Local Planning Authority and then implemented in accordance with the agreed details.

Reason: To ensure the satisfactory development of the site and encourage sustainable travel alternatives.

17. The proposed front boundary wall shall not exceed 600mm in height for a distance of 2 metres either side of the vehicle access points in Woodside Road.

Reason: In order to maintain adequate vehicle/pedestrian intervisibility.

18. No development shall be carried out until full details of existing and proposed levels of the site, including access way and floor levels for the proposed dwellings, and parking spaces have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity.

19. Prior to the commencement of the development full details of the design of the vehicle access gates (including a method for self closing and locking) shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to the first occupation of any apartment hereby approved and maintained in accordance with the agreed details thereafter.

Reason: In the interests of the security of the site.

20. Prior to the commencement of the development full details of the design of the replacement sub-station shall be agreed with Central Networks and submitted to and approved in writing by the Local Planning Authority and implemented and maintained in accordance with the agreed details thereafter.

Reason: In the interests of the visual amenities of the area.

Notes for applicant:

1. You are advised to refer to the agreement under Section 106 of the Town & Country Planning Act 1990, which has been completed in conjunction with the development.

2. In relation to condition 3 - Bank and Public Holidays for this purpose shall be: Christmas Day, Boxing Day, New Years Day, Easter Monday, May Day, Spring Bank Holiday Monday and August Bank Holiday Monday.

3. In relation to conditions 5 & 6 –

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(8 \text{ hours})}$, of 35 dB together with a maximum instantaneous level of 45 dB L_{AFmax} , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, $L_{Aeq(16 \text{ hour})}$, of 45 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise
- Part 1: Guide to Quantities and Procedures;
British Standard BS 7445-2: 1991 - Description and measurement of environmental noise
- Part 1: Guide to the acquisition of data pertinent to land use
British Standard BS 7445-3: 1991 - Description and measurement of environmental noise
- Part 3: Guide to application to noise limits.
British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed
residential and industrial areas
Calculation of Road Traffic Noise, 1988
Calculation of Railway Noise, 1995
This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

4. In relation to Contaminated Land (condition 7)

CL1:

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2:

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant

successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3:

Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

5. In relation to demolition works: If your application involves demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the Building Act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Helpline number 01922 652408.

6. In relation to Protected Species – Although no bats have been found roosting in the building, any demolition should be carried out carefully with the expectation that bats may be found. All British bats are protected by law. The highest risk is during the removal of roofing material. If bats are observed within the building scheduled for development, either prior to or during development, Natural England (Birmingham Office 0121 233 0399) must be contacted. Work must cease and it may be necessary to apply for a European Protected Species license from Natural England.

7. In relation to the footway crossing and street lighting - All alterations to the existing vehicular footway crossing at the access point in Woodside Road and Woodside Close required by the proposed development including the removal of the existing vehicular footway crossing in Woodside Close made redundant by the proposed development, shall be constructed to a specification to meet all statutory requirements. You are advised to contact Walsall Council’s Street Lighting partner Amey in respect of any of their plant affected by highway works in Woodside Close.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major development

Application Number: 09/1064/RM

Application Type: Reserved Matters

Applicant: West Register (Realisations) Ltd
&

Proposal: Reserved matters application
sought to discharge the reserved matters
relating to the siting, design and external
appearance of the buildings, and the
landscaping of the site, as set out in Condition
2 of the outline planning permission
07/0693/OL/W5.

Ward: Darlaston South

Case Officer: Karon Hulse

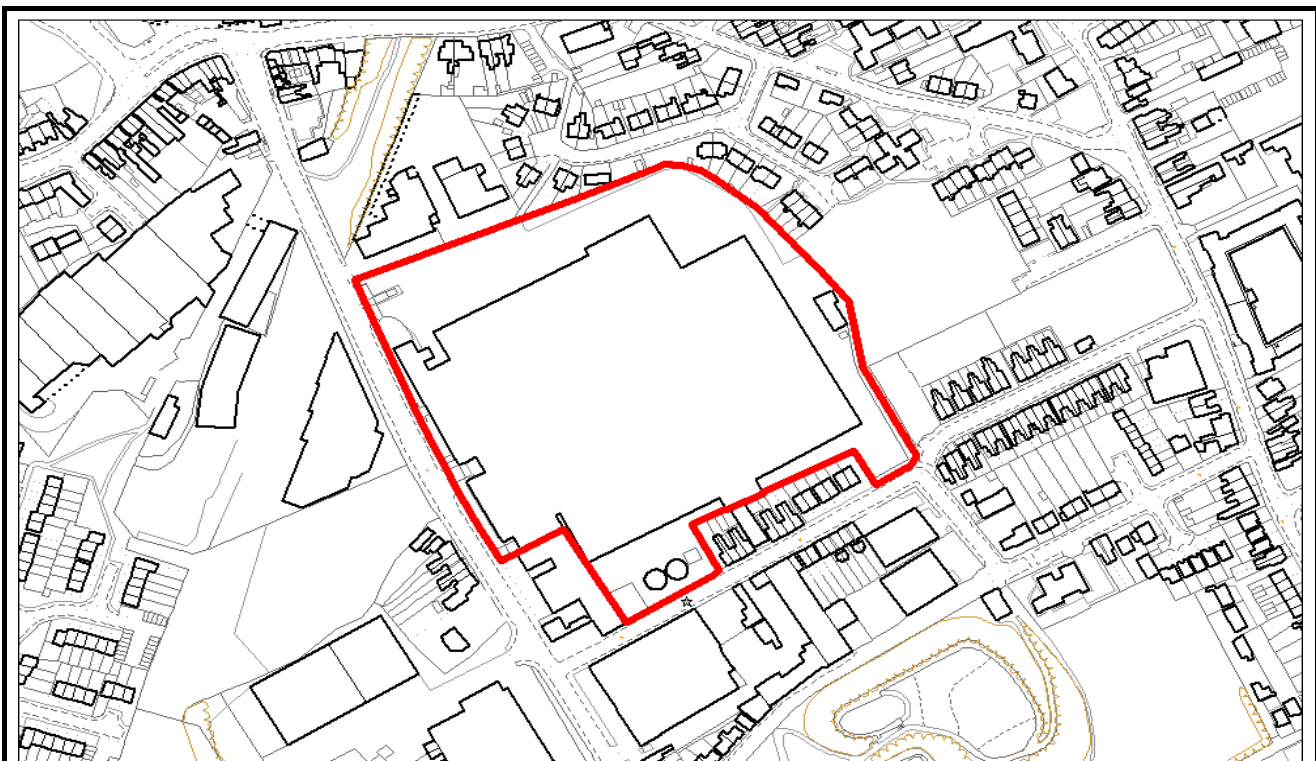
Telephone Number: 01922 652492

Agent: Freeth Cartwright LLP

Location: SERVIS GROUP
LTD, DARLASTON ROAD, WALSALL,

Expired: 05/11/2009

Recommendation Summary: Approve Reserved Matters with Conditions



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Application and Site Details

This is a reserved matters application following outline consent for the residential redevelopment of land at the former Servis UK site on Darlaston Road, Darlaston.

At the time of the outline permission the means of access was approved from Darlaston Road and an illustrative drawing of how the site could be developed in the future was also submitted. This reserved matters application which considers the layout, design, external appearance, and landscaping broadly follows that illustrative drawing.

The details therefore are very similar to those at the outline stage except that the illustrated drawings indicated a total of 224 units on the site which is now reduced to 223 units.

In detail the submission proposes

- creation of linear street scenes with housing either side,
- courtyards of communal parking and private parking with housing around the outsides
- 223 units - a mix of houses, apartments (36 units) and flats over garages
- 2, 2½ and 3 storey,
- 1, 2, 3 and 4 bedrooms.
- emergency / cycle / pedestrian access onto Bright Street
- gateway features at points of transition
- home zones

The density based on the illustrative drawing would be 54 dwellings per hectare (dph).

The site is now vacant having formerly been occupied by Servis UK for packaging, storing and distribution of household goods such as washing machines and fridge freezers. The site has not been cleared and most of the site is either occupied by buildings or hard surfaced. It is a roughly square site with its main frontage and access onto Darlaston Road. To the north, east and south east is residential with open space/school playing fields bordering the site along its immediate eastern boundary. To the northwest, west and immediately south are existing industrial uses.

The existing residential properties around the site are predominantly 2 storey and a mix of 50's, 60's and 70's style dwellings (some previously Local Authority owned others privately owned). There is a public footpath running along the northern boundary connecting Darlaston Road with York Crescent.

Darlaston District Centre (measured to the library) is approximately 200 metres away along Darlaston Road.

Parking would be between 150 and 200% either within the curtilage of dwellings or in courtyards behind the units (a design method intended to reduce the impact of the car and allow the layout to reflect more closely the nearby surrounding urban grain).

The outline consent approved the principle of use of this site for residential.

A planning statement and design and access statement has been submitted identifying this as a realistic and viable opportunity to re-develop a previously developed site and that the site will positively contribute to providing and creating new residential opportunities and significantly improving the visual amenity of the local area. The concept behind the layout is to reinforce the urban grain of the streetscene along Darlaston Road with properties fronting onto the highway and parking being provided behind in small secure parking courts. A similar approach is proposed along Bright Street. The layout allows for permeability through and around the site and identifies areas where the principle of home zones will be introduced.

As with the illustrative drawings deposited with the outline planning application no open space is included within the site however it abuts the Kings Hill JMI school playing field (private), and Kings Hill Park (public) is approximately 100 metres to the south. Notwithstanding the above, a Section 106 Agreement has been entered into for financial contributions towards open space, education and health with 25% of the site being for affordable housing.

Relevant Planning History

07/0693/OL/W5 – Outline: Residential Development including location of access point.
Grant Subject to Conditions 6th August, 2007

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Unitary Development Plan

GP1 - Development will be guided by principles of sustainability, minimising need to travel by car, maximising re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2, GP7, 3.16, ENV18, ENV32 and H10 - Development schemes should, help improve the environment of the Borough whilst not allowing development that has an adverse impact.

JP7 - Use of Land and Buildings in Other Employment Areas

(d) windfall sites or buildings will normally be safeguarded for appropriate employment uses however sometimes other uses such as housing may be acceptable...alternative uses must satisfy other relevant policies and not constrain the operation of neighbouring businesses, or appropriate future commercial investment.

GP3 and 8.8 - Planning obligations will be used to secure provision of on or off-site infrastructure, facilities, services or mitigating measures made necessary by development

LC1 and 8.3 protection of and provision of urban open space

T7 - All parking provision designed and sensitively integrated into the townscape or landscape...Policy T13 also sets parking standards.

T10-T12: Accessibility standards.

H3 - Encouragement for the provision of additional housing through the re-use of previously developed windfall sites and conversion of existing buildings.

H9: Densities...Indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, but significantly higher densities exceeding 50 dwellings per ha will be encouraged if close to local centres.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Supplementary Planning Documents (SPD)

Designing Walsall SPD

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be

used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Natural Environment SPD

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

Protection is proposed for protected animals, plants etc.

Urban Open Space SPD

Sets out the thresholds and contributions sought towards urban open space from residential developments.

Healthcare SPD

Sets out the thresholds and contributions sought towards healthcare from residential developments.

Education SPD

Sets out the thresholds and contributions sought towards education from residential developments.

Affordable Housing SPD

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

Regional Spatial Strategy for the West Midlands (RSS 11)

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies are to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

- a) to reverse out-migration accommodating within the Black Country all of the generated household growth from 2011 and meeting at least the levels of housing provision identified in Policy CF3 table 1;
- b) to raise income levels raising demand and household incomes (average earnings, GDP per head and reducing unemployment) to the UK average by 2033;
- c) to create an inclusive and cohesive society within the Black Country removing barriers to opportunity and changing the socio economic mix by increasing the proportion of social grades A and B to match the national profile by 2033 or earlier; and
- d) to transform the Black Country environment by protecting and enhancing the sub-region's environmental and heritage assets and biodiversity and implementing the Black Country as Urban Park concept.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

There is no need for this application to be considered under the Conformity Protocol.

National Policy

Planning Policy Statement (PPS) 1: Sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design. Supplementary document published on the need to address climate change through the planning system.

PPS 3: Encourages reuse of previously-developed land for housing in sustainable locations and takes a sequential approach to location of new homes. Applications for residential on employment land should be given favourable consideration, subject to criteria. PPS3 also indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. This includes high quality housing that is well-designed and built to a high standard; a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas; a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

PPG24 advises on noise standards

Other related documents are PPG25 Development and Flood Risk, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places, The Planning System and Crime Prevention and By Design - Urban Design in the Planning System: Towards Better Practice.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

Consultations

Pollution Control (Scientific Team) – no objections

Pollution Control (Contaminated Land) – no objections

Fire Service - no objections

Centro – no objections however due to close proximity to proposed 5Ws rapid transit route a developer contribution should be sought towards the metro stop

Ramblers Association – no objections subject to no solid fencing adjacent to the public footpaths

Police Architectural Liaison Officer – no objections subject to vehicle access points to the courtyards being gated, pedestrian access gates to be self closing and locking, any planting should not impede surveillance

Regeneration (landscape) – no objections

Public Rights of Way – no objections but would prefer to have emergency access next to or incorporating FP9 Wednesbury.

Public Participation Responses

19 letters of representation received from residents in Bright Street, Nowell Street, School Street and Bright Street and a petition containing 32 signatures objecting on the following grounds

- the emergency access is not visible
- youths gathering and hanging around
- rubbish dumping
- new occupiers will park on Bright Street
- more traffic problems
- why isn't the existing footpath being used
- why create a new footpath
- concerns about carbon monoxide and use of gas fires

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of the development
- Design / layout
- Contributions
- Noise / land contamination
- Access / parking / public footpath
- Security
- Otherwise unresolved objections

Observations

Principle of Residential

The site was granted outline planning permission in August 2007. Since that time there have been no material alterations and therefore the use of the site for residential is acceptable.

Design / Layout

At the outline stage an illustrative layout was submitted, that layout now forms the basis of this reserved matters application.

The layout of the site embodies concepts such as Home Zones which create defensible and safe areas. They have been integrated into the scheme and this results in a well designed development that allows legibility and permeability and integrates well with existing residential dwelling. It is supported by the Design and Access Statement which demonstrates that careful consideration has been given to the design and layout of the site for residential use.

Views through the site are either terminated with focal buildings, arrangements of buildings, or penetrate through the site to the open space to the east to strengthen the relationship between the residential development and the open space.

The use of perimeter blocks results in strong building lines with good continuity and built form (particularly along Darlaston Road) and massing of the proposed housing types appears in context with the surrounding area. The rhythm of plot grain established by the existing residential properties in Bright Street has been respected and built upon by the row of properties adjoining their rear boundary.

The layout makes the most of the value of the adjacent playing fields to the east at the rear of the site and has been designed to orientate the apartment blocks so that they overlook the open space.

Eighteen communal cycle stores will be provided, mainly within the communal courtyard parking areas.

Tree planting is proposed to create avenues and give the streetscene some interest and will provide the potential for a variety of colour throughout the year.

Overall, the layout of the scheme respects the urban character of the surrounding area in general and will provide adequate amenity space, privacy and daylight to all units, as such the overall design and layout of the development, orientation, impact on the character of the area and amenities of surrounding occupiers is considered acceptable. All apartments are provided with balconies therefore having their own private amenity space as well as informal communal areas.

The buildings are traditional designs, typical of the commercial house builders (pitched roof with bays and porches), which are mostly two storey. The apartments are 3 storeys in height and are also traditional designs with pitched roofs, overall the proposals incorporate design features that are in keeping with the area and acceptable on the site.

Garden sizes are generally between 10 metres and 15 metres which mostly accords with Designing Walsall SPD requirements.

Contributions

Centro are seeking improvements to public transport and in particular a contribution to a new metro stop on the proposed 5Ws Rapid Transit Route although they have yet to quantify the amount that they would seek. This was also the case at the outline stage at which time it was not actively pursued and therefore can not be sought now.

Noise / Land Contamination

Issues of noise and land contamination were considered at the outline stage. At that time Pollution Control were satisfied that any potential issues could be satisfactorily addressed / controlled by conditions requiring details prior to any development commencing. Consequently details of noise measures and remedial measures to deal with any potential land contamination hazards are required to be agreed prior to commencement.

The site is currently covered by buildings and concrete hard standing, the applicants state that it is impractical at this stage to carry out the ground assessments necessary to identify the detailed remedial measures until demolition and site clearance has taken place. Similarly, in respect of the noise assessment, again the condition on the outline consent requires that suitable noise mitigation measures are agreed by the Local Planning Authority prior to development taking place. To some extent the noise mitigation strategy could be dependent upon boundary treatments which are also required as a pre-commencement condition and not part of the Reserved Matters application. Also the likely resolution of noise mitigation for internal spaces within the dwellings will probably be by way of glazing specification with acoustic ventilation where necessary. It is not considered that there are any aspects of the design or layout of individual dwellings that would be particularly affected by noise and in any case mitigation measures such as glazing as identified in the noise report that accompanied the outline application would be satisfactory to achieve a satisfactory environment for future occupiers whilst protecting the local businesses around the site.

Access / parking / public footpath

Access – access to the site from Darlaston Road was agreed at the outline stage.

An emergency access is to be provided from Bright Street as per the outline illustrated plans to allow adequate access for Fire Service vehicles. This access will be restricted allowing only pedestrian and cycle traffic.

Parking is provided at a ratio of 150% for communal and 200% within the curtilages of dwellings, this accords with the requirements of the Unitary Development Plan.

Public Footpaths - The location of the existing public footpaths has been taken into account in the design and layout of the site and for the majority of their lengths they will be overlooked by residential units and will not run along the back of houses. Therefore from a security point there should be no issues as they will be naturally policed by future residents of the estate.

There may be an option in the future to include these two footpaths into the estate.

Security

Open space – The Police Architectural Liaison Officer states that there is little open space within the site, however, the developer has chosen to provide a financial contribution towards local open space facilities. Kings Hill Park to the south of the site and approximately 100 metres away, is one of Walsall's top 25 premier Greenspaces as outlined in the Greenspace Strategy, it is a neighbourhood park but is classified as High Value Low Quality. Improvements to the park are a priority, therefore any monies from financial contributions should be directed to the improvement of this park, as previously envisaged.

Emergency access - Overlooked by plots 143 and 145 which both have windows looking directly onto the driveway, 143 has both kitchen, living and bedroom windows looking onto the access drive and plot 145 will have a secondary window looking from the dining room onto the access drive therefore there will be sufficient natural surveillance to protect this area as well as affording security for those properties.

There needs to be a balance between providing natural surveillance, personal security and property security. The proposed details offer the best solution to achieve all of the above.

Parking - The scheme offers maximum security and natural surveillance throughout the site. Internally within the site, there would be a mix of dwellings served either by private drives or communal parking areas all of which would be positioned and orientated so as to gain maximum natural surveillance of those areas. Most communal parking areas are accessed through an archway (generally with a FOG – flat over garage - bridging the access) which has first floor accommodation above, this in itself provides natural surveillance of residents vehicles, also (because the parking areas are quite small) unauthorised persons will be easily detected.

To reinforce this it is suggested by the Police Architectural Liaison Officer that these areas should be gated and therefore officers recommend an additional condition requiring details of such gating to be submitted and approved prior to the commencement of development.

Other issues

The main objection from local residents relates to the provision of an emergency access off Bright Street. At the outline stage it was suggested that in order to develop this site satisfactorily for residential it would require an emergency access due to the size of the site. The illustrative drawings at that time indicated the access would be off Bright Street with bollards at either end. The objectors appear to have misinterpreted those details as

they have referred to there being steps at either end of the access road, this is not the case, the plans simply indicated a zoned area along the access road which would be restricted by the bollards, it has never been the intention to gate this area.

They also have concerns relating to misuse of the access drive and in particular youths gathering, however there are a number of windows from the proposed dwellings either side which will look directly into the access drive offering a satisfactory amount of natural surveillance of the area.

Summary of Reasons for Granting Planning Permission

The use of the site for residential is in accordance with policies of the Unitary Development Plan, Supplementary Planning Documents : Designing Walsall, Natural Environment, Urban Open Space, Healthcare, Education and Affordable Housing, Regional Spatial Strategy for the West Midlands, Planning Policy Statements 1 and 3 and Planning Policy Guidance 13, 24 and 25.

The layout of the scheme respects the urban character of the surrounding area and provides adequate amenity space, privacy and daylight with particular attention being given to security of both premises and occupiers. In order to maximise accessibility to the site and give choice of alternative travel modes a residential travel plan is required and will be issued to all occupiers of the estate.

Details in respect of potential land contamination or noise are required prior to commencement of any part of the development thereby protecting future occupiers.

Kings Hill Park is less than 100 metres away and it is anticipated that this will provide the estates open space needs. A Section 106 Agreement has been entered into by the developers to provide a financial contribution to open space provision or enhancement of existing open space facilities. The contribution will therefore assist in improving the facilities provided at this park.

The provision of an emergency access is necessary in order to develop the site. Its location and design have been specifically selected in order to address the concerns of local residents regarding improper use of the access drive namely by youths gathering and potential rubbish dumping. The properties either side are orientated so as to offer maximum natural surveillance and overlooking which will offer the best solution in terms of both personal and property security and the development of the site.

It is anticipated that in the future both public footpaths which currently border the site could be incorporated into the estate, however, until such time this scheme provides the existing footpaths with sufficient natural surveillance and security to be currently acceptable and satisfactory.

On balance, having taken into account all material planning considerations and in view of the above, the proposal is acceptable.

Recommendation: Approve Reserved Matters with Conditions

1. This decision approves matters submitted under the following conditions as set out and defined by the outline planning permission 07/0693/OL/W5, dated 6th August, 2007 :-

- 2. a) The siting of the buildings;
- 2. b) The design of the buildings;
- 2. c) The external appearance
- 2. d) The landscaping of the site
- 10. Secure cycle storage
- 11. Drainage
- 12. Sustainable urban drainage
- 13. Emergency access
- 16. Landscaping

Reason : To define the permission

2. This decision is also subject to the further submission of details of the following conditions as set out and defined by the outline planning permission 07/0693/OL/W5, dated 6th August, 2007 :-

- 4. Site investigation, ground contamination survey and assessment of landfill gas.
- 8. Noise mitigation measures
- 9. Method statement
- 14. Boundary treatment (to include details of gated accesses to courtyards)
- 15. Schedule of facing materials
- 17. Lighting scheme
- 18. Protocol for highway cleaning
- 19. Residential travel plan
- 27. Sustainable development, energy and use of natural resources.

Reason : To define the permission



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/0974/FL

Application Type: Full application

Applicant: Lovell & Walsall Housing Group

Proposal: Proposed residential development for 96 properties. Comprising 46 affordable 2,3,4 & 5 bedroom 2 storey houses & bungalows & 50 open market 2, 3 & 4 bedroom 2 storey properties together with associated highway works.

Ward: Blakenall

Case Officer: Alison Deakin

Telephone Number: 01922 652487

Agent:

Location: LAND AT BEDDOWS ROAD
AND RUTLAND STREET, WALSALL

Expired: 04/11/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The proposal is for residential development of 96 properties on five parcels of vacant land (formerly Council housing) in Beddows Road and Rutland Street. The proposals are a joint submission made on behalf of Walsall Housing Group (WHG) and Lovell Partnerships and comprise a mixture of affordable and open market housing. The proposed housing comprises the following mix:

- 8 X 2 bed bungalows
- 44 X 2 bed houses
- 28 X 3 bed houses
- 14 X 4 bed houses
- 2 X five bed houses

Of the proposed dwellings 46 are affordable rented properties (44%) and are to comprise the 8 bungalows, two of which are designed specifically for disabled users, and a range of 2, 3, 4 and 5 bed houses. The open market housing will be 2 and 3 bed properties. The proposed layout shows housing fronting the established streets, with the inclusion of two new cul-de-sacs. Traffic calming measures are also to be introduced on the established streets. Car parking for each dwelling is provided either within the plot or within communal parking courts and equates to 200% provision for 2 and 3 bed properties and 300% for 4 and 5 bed properties.

Ryecroft is an established residential area. There are local public transport links to Walsall Town Centre and the site is within 2km of shops, schools, medical and health services. There is a railway along the south-west boundary of the site which is in a cutting and noise attenuation measures are proposed to protect residential amenities.

A Design & Access Statement, Noise Survey, Vibration Monitoring Report, Flood Risk Assessment, Tree Survey, Transport Statement and Travel Plan have been provided in support of the proposals. A Financial Assessment has also been provided.

The site area is 2.44 hectares which equates to 39 dwellings per hectare.

Relevant Planning History

04/2065/PD/E1 - Demolition of properties 26-36 & 42-48 Beddows Road – Demolition approved 2/11/04

07/1564/PD/6 - Demolition of 29 semi-detached and terraced houses – Demolition approved 14/08/07

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV34: Requires the provision of public art to enhance the quality and individuality of existing buildings, spaces or new development.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

6.3 & H3: encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

H4: On sites suitable for provision of an element of affordable housing the Council will normally negotiate with developers for 25% of total dwellings to be affordable homes.

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated 1, 2 & 3 bedroom houses – 2 spaces per unit

4 bedroom houses and above – 3 spaces per unit

LC1: seeks to retain and enhance existing urban open spaces and readdress any deficiencies in the provision or accessibility of these. Residential developments will be required to make financial or other contributions, which will enable the provision of new, or the improvement of existing urban open spaces.

8.8 & 8.9: Residential development will only be permitted where adequate school capacity exists or can be provided. Where residential developments necessitate the provision of new or improved educational facilities or other forms of social and community infrastructure the Council will require developers to make a financial contribution to the costs of providing facilities. On housing sites of 1 hectare (or 30 dwellings) or more accessible community healthcare facilities should be provided to serve the development. The Council may require a contribution from developers towards such provision.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

DW1: New development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2: All development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3: Design to respect and enhance local identity;

DW4: Attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5: Create places that are easily connected, safe to move through;

DW6: New development should contribute to creating a place that has a clear identity;

DW9: New development must seek to ensure it creates places with attractive environmental quality;

DW10: New development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing and 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Conserving Walsall's Natural Environment SPD

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees.

Protection is proposed for protected animals, plants etc.

Urban Open Space SPD

Sets out the thresholds and contributions sought towards urban open space from residential developments.

Healthcare SPD

Sets out the thresholds and contributions sought towards healthcare from residential developments.

Education SPD

Sets out the thresholds and contributions sought towards education from residential developments.

Affordable Housing SPD

Sets out the thresholds, tenure, mix and type of affordable housing sought from residential developments.

Regional Spatial Strategy for the West Midlands (RSS 11)

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)).

Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3 & QE4 seek to improve the quality of the environment. The policies also aim to enhance public spaces and urban green space. Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

National Policy

PPS1: Promotes sustainable development and good design.

PPS 3: Encourages reuse of previously-developed land for housing. Paragraph 10 indicates that housing policy objectives provide the context for planning for housing through development plans and planning decisions. Some of the specific outcomes that the planning system should deliver are well-designed housing built to a high standard and in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

PPS9: Seeks to promote sustainable development, conserve, enhance and restore the diversity of England's wildlife and geology.

PPG13: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

Circular 05/2005 (Planning Obligations) is of relevance with regard to the appropriate level of planning contributions that will be sought.

Consultations

Transportation – No objections subject to provision of further details relating to layout, highway works and Travel Plan.

The proposals show 212 car parking spaces in total, 2 spaces for each 2/3 bed properties and 3 spaces for each 4/5 bed properties which meets UDP maximum standards. The applicant has provided a Transport Statement which predicts the impact on the surrounding highway network taking into account the present uses (28 dwellings) and proposed uses (96 dwellings). The development is expected to generate about 37 additional trips during the AM and PM peaks and applying this to the trip distribution pattern, as a worst case scenario the number of new vehicles travelling via any major junction is not expected to exceed 24. This is considered insignificant in terms of affecting the capacity of the junctions and is considered acceptable.

The supplied Travel Plan identifies a number of measures and sets targets for reducing car usage and promotes sustainable alternative modes of Transport. This is acceptable subject to minor revisions.

Pollution Control (Scientific Team) – No objections in principle. There is potential for the nearby railway to create noise problems, so conditions have been recommended.

Pollution Control (Contaminated Land) – No objections subject to further works being implemented to investigate and remediate any ground contamination issues on the site. Conditions are recommended.

Housing Strategy – No objections. The proposals provide a mixed tenure development and much needed affordable housing.

Education – The level of surplus places is below 10% in both local primary and secondary schools therefore a contribution of £427,118.10 is required in accordance with the SPD for Education.

Greenspace Services – Comments to follow in supplementary paper.

Primary Care Trust – Comments to follow in supplementary paper.

Building Control – No objections.

Landscape – Objects. Apart from the retention of a few individual trees, no attempt has been made to consider landscape matters in what is a significant development proposal.

Arboricultural Officer – Objects due to tree loss and lack of landscape details. The site has relatively few trees, however, despite the retention of some the only ones of any note are situated in the south east of the site and according to proposals are to be removed to accommodate the proposed development, this is unacceptable. There is opportunity for significant tree planting but no landscape details have been submitted.

District Valuer – The developer has produced a Development Appraisal which shows an overall profit level of 13.58% of sales revenue (adjusted to 13.05% because of the lower level of Social Housing Grant available). However, this is based on a heavily subsidised land cost, a Social Housing Grant and nil S106 contributions. The District Valuer has made two appraisals of the scheme.

Appraisal A is based on the assumption that Social Housing Grant is paid, reduced land acquisition costs and finance costs deducted. On this basis the scheme results in a loss of £758,738 (or a loss of £478,973 if the developer's profit of 12.5% is adopted). If no S106 contributions are collected the loss becomes a profit of £251,208.

Appraisal B is made using software that assumes average sizes and allowances and is not site specific. The outcome, before deduction of site acquisition costs, finance costs and S106 contributions is again a loss of £512,574 (stated as site value but equating to the difference between revenue and costs). Changing parameters of developer's profit and S106 costs results in an improvement to the viability of the scheme as referred to above.

On the above basis, with the addition of S106 contributions, the scheme is marginal depending on the precise level of developer's profit. The viability of the scheme relies on the subsidised land cost and the Social Housing Grant of £59,500 per unit.

Lovell's approach should be accepted as this generates profit not shown using traditional appraisal methods. Consequently, on the developer's figures some, if not all, of the S106 requirements could be funded. Deducting the total requirement of £730,181 would result in a profit of 6.7% (as opposed to the required 13.05%). A 10% profit would generate a S106 contribution of £350,539. This is a matter for negotiation between the Council and Lovell.

Police Architectural Liaison Officer – The applicant has indicated that they will be applying for Secured by Design accreditation. This will ensure that security standards are installed from the outset and would also be a valuable letting or selling point. The area in which the development will be located has relatively high numbers of recorded crimes with burglary and vehicle crime being prominent.

Amended details have been provided that address original concerns with the layout relating to provision and design of access gates to parking courts, position of parking spaces to improve surveillance and position of gates to private pedestrian accesses. General comments regarding the provision of security doors, position of utility meters and design of perimeter fencing have also been raised and can be accommodated.

Network Rail – No objections but recommend provision of details to ensure no adverse effect upon the adjacent operational railway.

Fire Service – No objections.

Severn Trent Water – No objection.

Environment Agency – No objections.

Centro – No objections.

Public Participation Responses

Two letters of support for the proposals received. Comments are as follows:

- Welcome the proposals
- Very positive development – long overdue
- Will improve the area

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of residential development
- Layout & Design
- Access & parking
- Relationship to surrounding properties & railway

- Provision for Affordable Housing
- Provision for Education/Healthcare/Urban Open Space/Public Art

Observations

Principle of residential development

The site was formerly occupied by two storey housing that was demolished in the last five years as part of wider regeneration proposals for the Ryecroft area. The principle of re-development for residential purposes therefore offers the opportunity to make use of urban land and buildings and efficient use of the existing infrastructure. The density equates to 39 dwellings per hectare which falls within the range referred to in policy H9 and is considered in keeping with the surrounding area. The principle of providing a mixed tenure and a range of house types and sizes also accords with policies GP1, H4 and H10.

Layout & Design

The proposed new dwellings all directly face the street continuing a building line that give legibility to the street scene and respects the position of existing dwellings that adjoin these areas. The creation of the two new cul-de-sacs also adds interest and properties within them also have direct road frontages. This layout gives a clear definition between public and private space. Each dwelling has a small garden area to the front which is enclosed by 900mm high hoop top railings to provide defensible space.

The proposed dwellings are two storeys, with the exception of the bungalows, and incorporate pitched roofs, gable fronts, bay windows, canopies, and other traditional elements of design to be found in the surrounding area.

Approximately one third of the proposed dwellings have garden areas below the 68sq m guideline but these are mainly the two bedroom properties and most still achieve reasonable garden lengths, between 11 and 13.5m long. The smallest gardens are those to the bungalows on plots 82-85, 88 and 89 in road no. 2 which have garden lengths between 6 and 7 metres long. However, residents are likely to be elderly and may not wish for a large garden. They may also benefit from living in close proximity to other neighbours.

The separation between directly facing rear elevations of existing and proposed dwellings achieves at least 24m in most instances with the exception of that between plot 26 and 39 Holden Crescent where there is a minimum separation of 20 metres. However, a wide fronted house type has been chosen for plot 26 which allows a sufficient separation and the dwellings are angled in such a way that it is considered that there will be no significant loss of privacy or overlooking. It is also evident that earlier housing would have been positioned in approximately the same position.

The Police initially raised concerns regarding lack of surveillance of some car parking areas and the need for suitably designed gates to parking courts and private pedestrian accesses. These matters have been addressed by the applicant by provision of details and inclusion of suitably designed gates to parking courts, repositioning parking side by side to allow greater surveillance adjacent plot 81 and incorporation of an additional window on plot 26 to provide surveillance of the parking area. The proposals therefore achieve a clear distinction between public and private space and seek to address security matters from the outset and are acceptable.

Despite the lack of any landscaping details it is considered appropriate in this instance to require submission of details at a later date. The proposals retain only one tree within the site but this is located within a rear parking court where it will not be prominently visible. However, the trees to be removed are largely within areas that would have been rear gardens of the former properties and therefore offer little value to the visual amenities of the street scene. The proposals do offer the opportunity for planting within front gardens, albeit limited, but generally the overall benefit the development offers to the visual amenities of the area is considered to outweigh any concern regarding lack of significant landscaping or loss of trees. This will be no different to other schemes throughout the Borough.

Access & parking

The proposed development utilises the existing road layout but additional traffic calming measures are to be installed. Two new cul-de-sacs will be formed serving plots 83-88 and plots 53-62 on the south-western boundary of the site adjacent to the railway.

Parking throughout the site includes detached garages, driveways and parking courts. The parking levels are 2 spaces per 2/3 bed property and 3 spaces for the 4/5 bed properties which accords with the guidelines given in policy T13. All spaces are accessible from the properties they serve and those within parking courts have pedestrian gates from the parking area to individual rear gardens. Refuse collection areas are incorporated within the rear parking courts to prevent refuse bins cluttering the street for these dwellings.

A satisfactory Transport Statement and Travel Plan have been provided. Transportation is satisfied that the proposals will not generate such a significant amount of additional traffic that would affect the capacity of the highway junctions. In the circumstances the proposals are acceptable.

Relationship to surrounding properties & railway

The proposed layout largely respects the separation distances between existing and proposed dwellings as per the guidelines given in Appendix E of SPD: Designing Walsall, with the exception of instances mentioned earlier in this report. In the circumstances the proposals have no significant adverse impact upon the privacy and outlook of adjoining housing and respect residential amenities. There is a back to back garden relationship between most existing and proposed dwellings but where proposed new dwellings are alongside existing the position of the buildings has been designed so as not to project in front to such an extent as to become obtrusive within the street scene. The proposals therefore have an acceptable relationship to surrounding properties.

There are gardens and parking courts that back onto the railway line. However, gardens are either longer (up to 24.5m long on plots 95 & 96) or are separated from the railway line by the parking courts themselves which provides a buffer from the gardens and dwellings. Pollution Control is satisfied that the noise mitigation measures proposed within the noise survey are adequate to protect the internal areas of dwellings which have facing windows and implementation of the measures is recommended. Network Rail has also not raised any objections to the proposals but recommend precautions to protect the operation of the railway in terms of maintaining a robust boundary to the railway, landscaping and drainage adjacent to the railway, prevention of future buildings from affecting the railway structure

and generally maintaining the integrity of the operational railway. It is recommended that these matters can be dealt with by submission of further details by condition.

Provision for Affordable Housing

Under the terms of policies GP3 and H4 of the UDP and the SPD: Affordable Housing 25% of the units provided should be for affordable housing (24 units). The proposals are a joint submission between Lovell Partnerships and Walsall Housing Group and the details indicate that 46 of the 96 units proposed (48%) are for affordable homes. The proposals therefore accord with the above policies and this will be controlled by condition.

Provision for Education/Healthcare /Urban Open Space/Public Art

Under the terms of policies GP3, 8.8, 8.9, LC1(d) and ENV34 of the UDP, policy DW9 of the SPD: Designing Walsall and SPD's for Education, Healthcare, and Urban Open Space the development would attract the need for a S106 Agreement to ensure provision of Education, Healthcare, Urban Open Space and Public Art.

In the circumstances a contribution of £427,118.10 is required towards provision of local primary and secondary school provision. A contribution of £96,843.60 is required towards healthcare; a contribution of £172,620.00 is required towards urban open space provision and £33,600.00 is required toward public art provision. The total figure is therefore £730,181.70.

The developer has provided a Financial Assessment that indicates the viability of developing the site. It states that this scheme is reliant on considerable funding from the Homes and Communities Agency and that viability is also reliant on there being no contributions towards education, urban open space, healthcare and public art as required under Walsall Council policies. In the circumstances they propose no contributions to education, healthcare, urban open space or public art.

The Financial Appraisal has been assessed by the District Valuer who concludes that on the basis of the developer's figures some, if not all, the S106 requirements could be funded and still generate a profit of 6.5% (as opposed to the developer's required 13.05%). His recommendation is that the Council carry out further negotiation on this matter with the developers. The District Valuer report has been forwarded to the developer and consultees. Their responses will be reported in supplementary papers.

The proposals offer the opportunity to re-develop a former housing site and regenerate a vacant site within an established residential area for the benefit of residents. It is an exceptional case as 46 of the 96 units proposed are for affordable social rented tenure. It could also be considered that the replacement housing is unlikely to create greater pressure on education, urban open space, healthcare and public art resources than the former housing on site did. It is however, recommended that Committee consider the response from the developer when available and the consultee replies regarding the proposal to make no contributions for education, urban open space, healthcare and public art before deciding the application Further comments will be reported in supplementary papers.

Summary of Reasons for Granting Planning Permission

The principle of re-developing this vacant former housing site for new housing is acceptable as it makes better use of previously developed land in the urban area. The density also accords with policy H9.

The layout and design respects the surrounding street pattern and provides a clear distinction between public and private space. Private gardens are of an adequate size to provide useable space for occupiers and the separation between dwellings achieves the 24m guideline given in SPD: Designing Walsall in most instances and on balance is considered acceptable. The site layout respects privacy and outlook for surrounding neighbours.

Police concerns regarding security have been resolved by provision of revised plans and additional details showing revised parking, additional gable windows and appropriate gates to improve security and surveillance of the parking areas. Despite the lack of landscaping details at this stage the proposal offers the opportunity for soft landscaping in front gardens, will improve the visual amenities of the area and landscaping provision will be no different than surrounding housing. The trees to be removed are those within rear gardens of the original housing and did not contribute significantly to the visual amenities of the area as none were covered by Tree Preservation Order. On balance their loss can be compensated for by inclusion of appropriate landscaping.

Access is considered acceptable and parking accords with Policy T13 and is safe and convenient.

With regard to the relationship to the railway the layout provides adequate separation to this boundary and provision of further details regarding boundary treatments, landscaping and drainage, will maintain the integrity of the operational railway line and safeguard occupiers. A condition is included to remove Permitted Development rights for buildings and structures within rear gardens of plots adjacent to the railway to provide further protection.

The site provides 46 affordable homes which equates to 44% and exceeds the 25% required by policy H4 and is welcomed. Although no provision is made for education, urban open space, healthcare or public art the developer has made a case for this reduction as the development relies heavily on external funding and provides a large percentage of affordable homes and on balance is considered acceptable.

For the above reasons the proposals are considered to comply with policies 2.2, 3.6, 3.7, GP1, GP2, GP3, GP4, GP7, 3.16, ENV10, ENV14, ENV32, ENV33, ENV34, ENV40, 6.3, H3, H4, H9, H10, 3.116, 3.117, 7.1, T7, T13, LC1, 8.8 and 8.9 of Walsall Unitary Development Plan, Supplementary Planning Documents: Designing Walsall, Education, Urban Open Space, Healthcare and Affordable Housing and the Regional Spatial Strategy for the West Midlands (RSS).

Recommendation: Grant Subject to conditions

1. The development must be begun no later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Location Plan received 15/07/09
- Planning Layout (BR/301/01/C) received 25/09/09
- Site Sections (BR/301/02) received 05/08/09
- Barkham, Barsham (WC), Burnham, Canwell, Elmwood, Evesham, Fenton, Gayton, Halewood, Keinton, Leeswood, Linwood, Norwood, Oldbury, Rochester, Waltham and Wareham House Type Floor Plans and Elevations received 15/07/09
- Type G2, G6, G15, G16 and G21 Garage Floor Plans & Elevations received 15/07/09
- Close Boarded Screen Fencing (MRSD/DET/007) received 15/07/09
- Division Fencing (MRSD/DET/008) received 15/07/09
- Feature Brick Piers with Railings (MRSD/DET/013) received 15/07/09
- 215mm Screen Wall Detail (MRSD/DET/024) received 15/07/09
- Site Survey (627-32 Rev B) received 15/07/09
- Detail of gates (BR/304/01) received 25/09/09
- Beddows Road View Locations, View 1, View 2 and Aerial View received 15/07/09
- Tree Survey (627-32 Rev B) & Tree Survey Schedule prepared by Westside Forestry Limited received 15/07/09
- Design & Access Statement prepared by Lovell received 15/07/09
- Draft Travel Plan prepared by JNP Group dated September 2009 (S82064-TP001) received 16/09/09
- Transport Statement prepared by JNP Group dated September 2009 (S82064-R001) received 16/09/09
- Noise Survey prepared by noise.co.uk received 15/07/09
- Vibration Monitoring prepared by noise.co.uk received 15/07/09
- Flood Risk Assessment prepared by JNP Group dated June 2009 (MS40571/FRA/R001) received 15/07/09

Reason: To ensure the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted (except in so far as other conditions may require).

3. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the amenities of surrounding properties.

4. No development shall take place until suitable noise mitigation measures to protect internal areas of the residential accommodation as identified in the report from noise.co.uk reference Report 4147 dated 17/12/2008 have been agreed in writing with the local planning authority, and the development shall not be occupied until such measures have been fully implemented. The measures shall thereafter be retained in accordance with the approved details unless the Local Planning Authority agrees in writing to any variation.

Reason: To protect residential amenities of future occupiers.

5. In order to address potential impact from land contamination the following matters shall be addressed:

- i) Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- ii) Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- iii) Prior to built development commencing a "Remediation Statement" setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- iv) The remedial measures as set out in the "Remediation Statement" required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- v) If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered development shall cease until the "Remediation Statement" required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- vi) A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

6. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage shall be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The scheme shall also include:

- Sustainable drainage features as described in JNP Group, Flood Risk Assessment June 2009 (MS40571/FRA/R001)
- Details of how the scheme shall be maintained and managed after completion

No water or effluent should be discharged from the site or operations on the site into the railway undertaker's culverts or drains, without Network Rail approval. Soakaways should not discharge towards and/or within 10m of railway infrastructure. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution and protect the integrity of the adjacent railway.

7. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

8. Prior to the first occupation of any dwelling, all accessways and parking areas shown on the approved plan shall be fully consolidated, surfaced and drained and the parking bays clearly demarcated on the ground and shall thereafter be retained for this purpose.

Reason: To ensure the satisfactory development of the site and availability of off-street parking.

9. Prior to the commencement of the development, an Agreement under S278 of the Highways Act 1980 shall be entered into with regard to the required alterations to the existing traffic calming measures within the public highway required as a result of the development.

Reason: To maintain highway safety.

10. Prior to the commencement of the development, a revised Draft Travel Plan shall be submitted for approval by the Local Planning Authority following consultation with the Council's Sustainable Travel Officer and the agreed measures shall be implemented in accordance with the approved plan and retained thereafter.

Reason: To secure provision of sustainable travel alternatives.

11 Prior to the commencement of the development fully detailed drawings showing the design and operation of the access gates serving the communal parking areas and the design of all pedestrian access gates throughout the site are to be submitted to and approved in writing by the Local Planning Authority and installed prior to first occupation and retained in accordance with the agreed details thereafter.

Reason: To ensure the security of the site.

12. No development shall commence on site until details of a landscaping scheme, including spatial arrangement of proposed soft landscaping, species, numbers and size of all shrubs and trees, topsoil depths and specifications and staking details of proposed trees as well as any necessary phasing of implementation, are submitted to and approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before the development is occupied, unless otherwise agreed in writing with the local planning authority, and retained as such. All planted areas shall be maintained for a period of 5 years from the full completion of the scheme. Within this period any tree(s), shrubs or plant which die, becomes seriously diseased, damaged or is removed shall be replaced with a tree, shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to safeguard the visual amenity and natural environment of the area.

13. The development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO₂, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

Reason: In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policy GP2 of the Walsall Unitary Development Plan

14. Notwithstanding the details of boundary treatments shown on the planning layout drawing (BR/301/01B) full details of boundary treatment alongside the adjacent railway, to include provision of a trespass proof fence (of at least 1.8m in height) and an ARMCO safety barrier at the edge of the parking courts, shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented and maintained in accordance with the agreed details.

Reason: To ensure the security of the site and maintain a robust boundary with the operational railway line.

15. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2, Part 1, Class E no buildings or structures shall be erected on plots 59 – 96 inclusive within 2m of the boundary with the railway line.

Reason: To maintain the safety and security of the operational railway line.

16. No more than 25 dwellings shall be built on the application site, unless the applicant has made appropriate on-site provision towards affordable housing in accordance with policies GP3 and H4 of the Unitary Development Plan and the Affordable Housing Supplementary Planning Document unless otherwise agreed in writing by the Local Planning Authority. The affordable housing shall be retained thereafter.

Reason: To ensure that affordable housing needs are met in accordance with policies GP3 and H4 of the Unitary Development Plan and SPD: Affordable Housing.

Note for applicant in respect of condition 3

Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; Good Friday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

Notes for applicant in respect of condition 4

With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

- a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(8 hours), of 35 dB together with a maximum instantaneous level of 45 dB LAFmax, between the hours 23.00 to 07.00;
- b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level, LAeq(16 hour), of 45 dB between the hours 07.00 to 23.00;

Unless otherwise specified in a relevant standard, code or guidance, sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 1 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications which shall have been verified in accordance with British Standard BS 7580 'Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' or British Standard BS 61672 Electroacoustics- Sound Level Meters - Part 3: Periodic tests, within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994; Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures; British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use

British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits. British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas

Calculation of Road Traffic Noise, 1988

Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum

Notes for Applicant in respect of condition 5

CL1

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems

employed together with certification of their successful installation should also be submitted.

Where appropriate records and results of any post remediation ground gas testing should be included in validation reports.

This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Notes for applicant in respect of the operational railway

OPE: At least six weeks prior to works commencing on site the developer MUST contact the Outside Parties Engineer (OPE) at the following address; Territory Outside Party Engineer, Network Rail (London North Western), 11th Floor, The Mail Box, 100 Wharfside Street, Birmingham, B1 1RT or by email at: opelondonnorthwestern@networkrail.co.uk. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

DEMOLITION: Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Outside Parties Engineer before the development can commence.

FAIL SAFE USE OF CRANE AND PLANT: All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

VIBRO-IMPACT MACHINERY: Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

SCAFFOLDING: Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

EXCAVATIONS/EARTHWORKS: All excavations / earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be

carried out in accordance with the approved details. Where development may affect the railway, consultation with the Outside Parties Engineer should be undertaken.

SECURITY OF MUTUAL BOUNDARY: Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Outside Parties Engineer.

FENCING: If not already in place, the Developer must provide a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

METHOD STATEMENTS/FAIL SAFE/POSSESSIONS: Method statements may require to be submitted to Network Rail's Outside Parties Engineer at the address given for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

TWO METRE BOUNDARY: Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least **2 metres** from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

LIGHTING: Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's approval of their detailed proposals regarding lighting. Following occupation of the development, if within three months Network Rail or a Train Operating Company has identified that lighting from the development is interfering with driver's vision, signal sighting, alteration/mitigation will be required to remove the conflict at the applicant's expense.

ACCESS TO RAILWAY: All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

TREES/SHRUBS/LANDSCAPING: Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail should be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for

screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below: Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata “Zebрина” Not Permitted: Alder (Alnus Glutinosa), Aspen – Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

A comprehensive list of permitted tree species is available upon request and any landscaping proposals must be submitted to the Outside Parties Engineer.

ARMCO SAFETY BARRIER: The Department of Transport recommends the provision of a safety barrier adjacent to the railway, alongside all roads, turning circles and parking areas where the railway is situated at or below the level of the development. The safety barrier should be designed to cater for specific loadings dependent on the road traffic anticipated and in a position to stop vehicles driving into or rolling onto the railway or damage the lineside fencing. Network Rail’s existing fencing / wall must not be removed or damaged.

BRIDGE STRIKES: Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in ‘Bridge strikes’. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the OPE is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

ABNORMAL LOADS: From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges). Network Rail have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Outside Parties Engineer to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

FORMER BR LAND SMALLER LAND ISSUES: It is incumbent upon the applicant to investigate all the covenants and understand any restrictions relating to the site which may take precedence over planning conditions.

Network Rail is required to recover all reasonable costs associated with facilitating these works

Note for applicant regarding refuse collection

Refuse Bin Collection Areas are located within the gated car parking courts. The distance to these areas from the public highway exceeds that recommended by Walsall Waste Management (6 metres). The developer must therefore ensure that satisfactory arrangements for the location of bins on collection days have been agreed with Walsall Waste Management.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 08/1832/FL

Application Type: Full application

Applicant: ROM Capital Opportunities Fund
Ltd.

Proposal: Variation of condition 5(c) of
planning permission reference BC42920P -
(restricting the range of goods to be sold) to
allow for food sales from a maximum floor
space of 1941.75 sq m in a maximum of 2
units, 1 and 2a.

Case Officer: Val Osborn

Telephone Number: 01922 652436

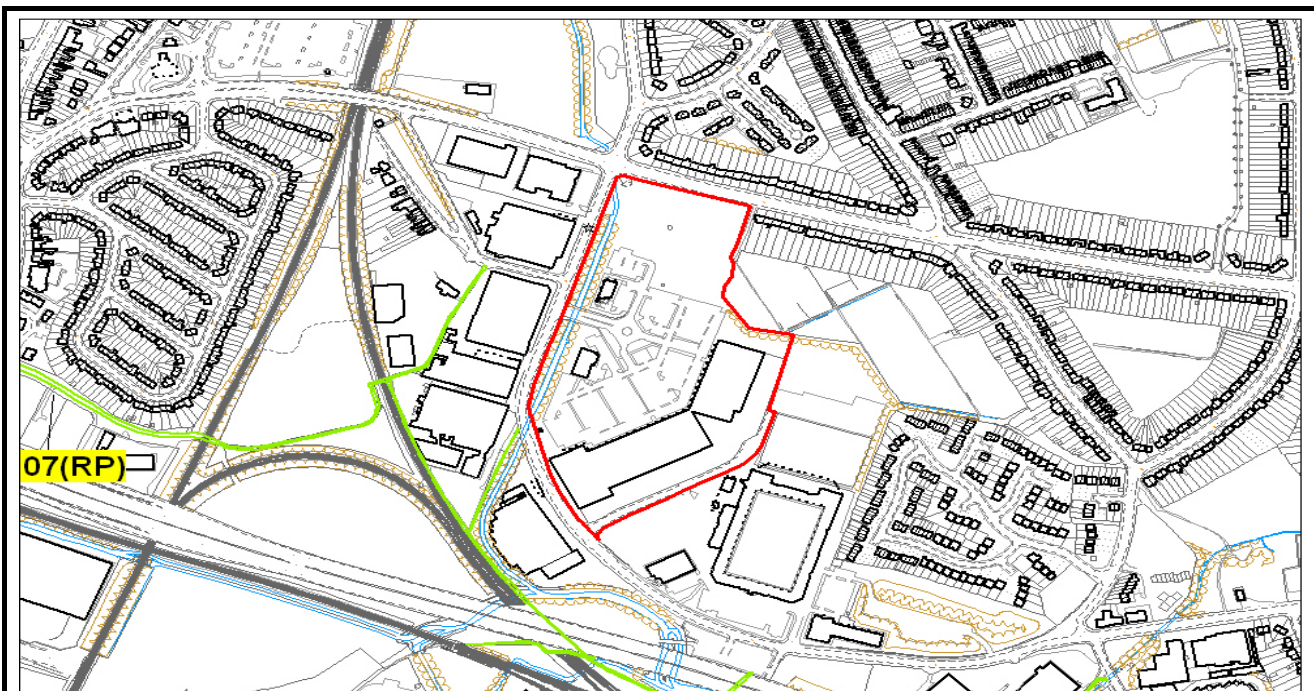
Agent: Miss Andrea Caplan

Location: BROADWALK RETAIL
PARK, BESCOT CRESCENT, WALSALL

Ward: Palfrey

Expired: 30/03/2009

Recommendation Summary: that had members got the jurisdiction to determine the
application, they would refuse the applications as set out



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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 08/1833/FL

Application Type: Full application

Applicant: ROM Capital Opportunities Fund
Ltd

Proposal: Variation of condition 5 of planning
permission BC42920P (restricting the range of
goods allowed to be sold) to allow a catalogue
retailer (unrestricted range of goods) from up to
1855 sq.m.

Ward: Palfrey

Case Officer: Val Osborn

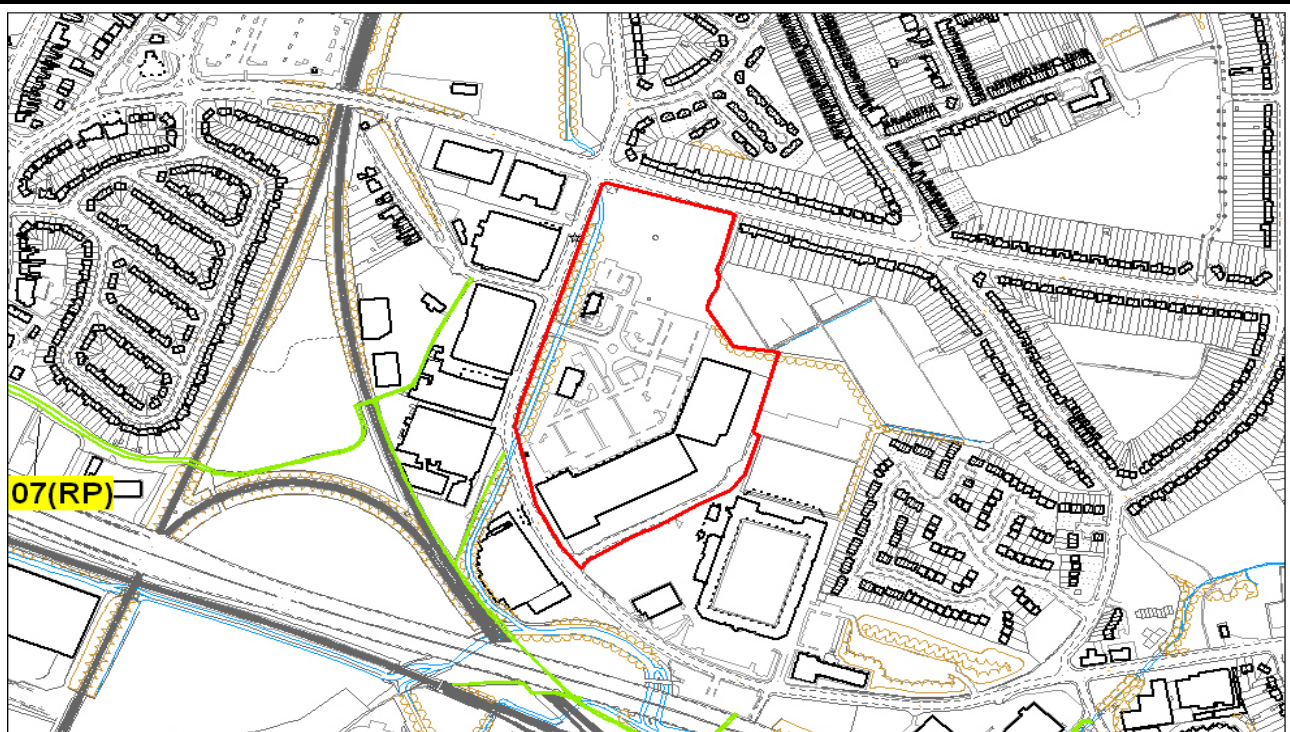
Telephone Number: 01922 652436

Agent: Andrea Caplan

Location: Broadwalk Retail
Park, Bescot Crescent, Walsall

Expired: 24/03/2009

Recommendation Summary: that had members got the jurisdiction to determine the
application, they would refuse the applications as set out



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Status

These are two undetermined applications. Appeals have been lodged for non-determination, and a Public Local Inquiry is to be held in January 2010.

This is an unusual situation, and this report is not seeking a decision on the applications (as one can no longer be made, as the appeals have been lodged and the Council no longer has jurisdiction to determine the applications). Instead, officers are reporting to this committee, in order to secure instructions from the Committee on the position the Council is to adopt, in relation to the appeals.

Application and Site Details

This is the Broadwalk Retail Park, just off Broadway West. It has changed hands, and the new owners seek to make improvements and enhance the effectiveness of the park. They envisage physical changes to signs etc. Planning application reference 08/1834/FL was granted subject to conditions on 6th February 2009. The applications currently being considered seek to vary the goods on offer.

Application 08/1832/FL (Aldi)

This is for the variation of a condition - 5(c) of planning permission reference BC42920P.

BC42920P created this retail park Condition 5(c) states:-

"There shall be no retail sales of food from the retail element, other than:-

- i) From a maximum gross floorspace of 1,858 sq. m. in no more than two units;*
- ii) Food and drink from a restaurant, café, take-away or licensed establishment, and confectionary at point of sale."*

The application seeks to vary this so that 5(c) would read (amendments in bold)

"There shall be no retail sales of food from the retail element, other than:-

- i) From a maximum gross floorspace of **1,941.75** sq. m. in no more than two units. **Condition 17 of BC55142P is varied accordingly.***
- ii) Food and drink from **restaurants**, café, take-away or licensed establishment, and confectionary at point of sale."*

The reference to BC55142P is significant. That permission created further retail floorspace on the retail park, but required a reduction in the food sales floorspace approved under BC42920P to 562.5 sq.m. as it brought the site more closely into line with the then-relevant approach to retail planning policy (i.e. a tighter policy framework than when the original permission was given)

The total food sales floorspace available to the retail park as a whole is 562.5 sq.m. only (and of course that is largely taken up by Farmfoods, who occupy the unit approved under BC55142P).

The objective of this application is to increase the area that can be used for food sales, to allow Aldi, the food retailer, to occupy part of the retail park (in addition to Farmfoods).

The application is supported by a Transport Statement. It concludes there are no major safety issues at present, and the proposal would make no significant change to this. There would be no greater increase in traffic than if the retail park were to be fully occupied. The applicants argue there is good public transport by train and bus, and many houses within walking distance.

It is also supported by a Retail Assessment, which considers need and alternative sites. It concludes there is sufficient convenience expenditure available to support the proposal (and hence there is a need). It also concludes there would be a qualitative improvement in this sector of the market. None of the alternative sites would be available for development in a reasonable timeframe.

There is also a supporting Planning Statement. This argues there is no significant impact from the proposal.

Application 08/1833/FL (Argos)

This is an application to vary condition 5 of BC42920P. That condition, broadly, requires that:-

- a) Maximum floor space of 12,132 sq.m.
No retail unit to be less than 462 sq.m.
- b) Restriction on the number of small units
- c) Restriction on food sales
- d) A list of goods allowed to be sold from the retail park
- e) Control over garden centre installation

The application proposes to add to this condition, part (f) which would say:-

Notwithstanding paragraph (d) above, a single unit of no more than 1,855 sq.m. gross shall be authorized to be occupied by a catalogue showroom retailer with at least 60% of the floorspace devoted to storage with no public access or display of goods for sale

A mezzanine floor is proposed but this is only 28.82 sq.m. larger than the existing mezzanine in the units in question.

The purpose of the application is to allow a catalogue retailer (Argos – probably the larger Argos Extra outlet style which includes a wider range than the typical town centre location, and includes bulky goods such as furniture) to occupy part of the retail park.

A Retail Assessment is submitted, considering both need and alternative sites. It concludes there is sufficient excess convenience expenditure (although this application is for comparison goods) available to support the proposal. There would be an improvement in shopping provision in Walsall (and it confirms that Argos is “... firmly committed to its existing town centre store and ... the proposed store will compliment it's in-centre provision. Argos operate both a town centre and out-of-town / edge of centre format in many locations and has never closed a town centre store under these conditions.” Alternative sites would not be available in the required timescale. About 92% of the goods to be sold can already be sold under the terms of the retail park permission.

A Transport Statement has been submitted. It concludes there are no major safety issues at present, and the proposal would make no significant change to this. There would be no greater an increase in traffic than if the retail park were to be fully occupied. The applicants argue there is good public transport by train and bus, and many houses in walking distance.

Relevant Planning History

The key features of the history have been set out above, in describing the applications.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website).

Unitary Development Plan (UDP)

GP1: Supports the sustainable location of development.

2.2, 3.6, & GP2: seek to make a positive contribution to the quality of the environment, promote and protect the local economy and in particular the town and district centres, whilst ensuring adequate, sustainable and safe access is provided.

4.6 recognises the significance of the retail sector in employment.

5.1 and 5.2 seek to promote retailing and the vitality and viability of town and district centres.

5.4, 5.5, 5.6, and 5.7 set out the sequential approach and its implications (in centre preferred to edge of centre preferred to out of centre).

S1 defines town centre uses, and S2 sets out the hierarchy of centres (town, district and local).

S4 sets out principles for safeguarding the town and district centres

Policy S7 relates to out-of-centre developments, and requires among other things:

- need to be demonstrated
- compliance with the sequential approach (i.e. there are no more centrally-located sites)
- no adverse impact trade and investment in centres;
- accessibility by a choice of means of transport and compliance with policies to reduce the need to travel.

T7: All development should satisfy the car parking standards set out in Policy

T10 Gives general accessibility standards

T11 Access for pedestrians, cyclists and wheelchair users.

T12 Access by public transport.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated.

Retail development should provide a maximum of 1 space per 14sq.m. of gross floorspace, at least 1 bike stand for every 20 car parking spaces and taxi facilities. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

The Black Country Town Centres Study is an emerging document of the JCS

Regional Spatial Strategy for the West Midlands (RSS 11)

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies PA11, PA13; a network of strategic centres will be developed; small scale out-of-centre retail proposals should be considered in the light of policies and proposals in development plans and take full account of Government guidance including the requirement to demonstrate 'need' and the sequential test.

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies seek to ensure retail and office development are located in the town centres.

Policies QE1, QE2, QE3, QE4 and QE5 seek to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

National Policy

PPS1 (Delivering sustainable development) seeks to reduce the need to travel

PPG4)(Industrial, Commercial Development and Small Firms) from 1992 seeks to promote the economy and support commercial development unless there are compelling reasons.

Draft PPS4; Planning for Prosperous Economies (May 2009) (*this carries little weight currently as it is still a consultation document and could change before it becomes PPS4*)

PPS6 (Planning for Town Centres) seeks to focus development in such centres to promote their vitality and viability. It sets out a range of tests related to need in qualitative and quantitative terms, scale, sequential approach, impact and accessibility.

PPG13 (Transport) seeks to locate development at sustainable locations, where there is a choice of means of transport, to reduce reliance on the private car.

Consultations

08/1832/FL

Transportation – No Objection.

08/1833/FL

Transportation – No Objection.

Representations

08/1832/FL

None.

08/1833/FL

None.

Determining Issues

- Compliance with planning policy
- Transportation issues

Observations

Compliance with planning policy

Both applications, at this stage, raise the same key issue.

The Council is keen to promote the local economy, and to that degree we share the applicant's objectives. The issue is that their desire is to promote a wider range of shopping at Broadwalk, and to attract new customers. Those new customers must come from somewhere else, and there is a risk that they will come from the town centre, or other shopping centres.

The Council would not wish to see Broadwalk succeed at the expense of the town centre, for example. Walsall town centre is a major focus for the local economy. It is already suffering from the state of the national economy.

In January this year the four Black Country Councils (Dudley, Sandwell and Wolverhampton and Walsall) commissioned consultants to undertake a major retail study to inform work on the Core Strategy that is being prepared jointly for the whole of the Black Country. It is based on a household survey of shopping patterns to derive the amount of consumer spending to support retail development across the Black Country and to look at the opportunities for investment in the area (especially its centres) to provide policy advice for retail (and other town centre) developments in the area.

Officers have been concerned that these two applications and their supporting information do not reflect the latest economic circumstances in respect of the tests to be applied to out-of-centre developments in terms of

- the need (in consumer expenditure terms) for the developments
- whether the proposals could/ should be accommodated in existing centres rather than in this out-of-centre location; and
- the likely impacts on existing centres (bearing in mind the viability and vitality of those centres)

The conclusions are considered to be important not only in themselves but also as they might set a precedent for dealing with future proposals.

The Black Country Centres Study referred to above is of obvious relevance to the determination of the applications. Officers have commissioned the consultants doing that study to provide specific advice in relation to the applications based on their emerging study. Their review has considered Walsall Retail Capacity Study by Martin Robeson (June 2006) which is an update of the study by Roger Tym and Partners for Walsall Council (May 2001). This draws on their existing work.

These processes have caused the delays that the applicants have now concluded can no longer be accepted, and they have lodged the appeals.

The Consultants consider that:-

For application 08/1832/FL for the Food retailer;

1. The applicant has not clearly demonstrated a quantitative or qualitative need for additional convenience goods floor space within the catchment the proposal is intended to serve. Having regard to existing and committed levels of convenience goods floorspace within the Borough it is not considered that there is likely to be any need for further convenience goods floor space in the period up to 2011 and any further needs identified should, in the first instance be met in the defined town, district and local centres ;
2. The Council has identified several sequentially preferable sites which are not considered by the applicant. Given the lack of justification regarding minimum requirements in terms of the business model, they are not satisfied that the submitted sequential assessment fully satisfies the provisions of PPS6 in this regard;

3. The applicant uses an inappropriate catchment to a discount store and fails to consider recent developments and commitments within their assessment. The applicant's impact assessment fails to consider in any detail the impact that the proposals would have on the vitality and viability of existing local and district centres.
4. There are reservations about the accessibility of the application site, as the evidence provided within their transport assessment is inadequate to satisfy the provisions of PPS6 in this regard. PPS6 (and draft PPS4) stress the importance of ensuring that developments are accessible by a range of public transport methods. In addition, UDP Policy S7 echoes this; 'the proposal must offer genuine and realistic, safe and easy access by public transport, walking and cycling for all sections of the community, and from a wide catchment area'. (*See transportation comments on this matter*)

In respect of 08/1833/FL, consultants consider that;

1. The proposals would create an uplift in an out-of-centre location which would, at the expense of the town centre, contribute to the shift in focus away from the town centre. The application falls short of demonstrating that the proposals could be accommodated without adversely impacting the vitality and viability of existing centres.
2. The applicants suggest that they successfully operate a two-store strategy across several town centres in the UK; however they do not fully demonstrate that the requisite level of need is evident for this approach in this location;
3. The proposals would constitute broadening the range of goods in an out-of-centre location. From scrutiny of the applicant's assessments, there are potentially more suitable and sequentially preferable sites that the applicant has omitted from its considerations.
4. There are reservations regarding the accessibility of the application site and the evidence provided within their transport assessment is inadequate to satisfy the provisions of PPS6 in this regard.

In the light of this advice, officers conclude that there are clearly issues concerning the failure to evidence various aspects in each application. For example the Consultants find the business model of the Catalogue retailer to be unjustified in its restrictiveness, as well as an overall absence of information or consideration of impacts of scale and inappropriate catchment. Therefore it has been appropriate for officers to seek clarification and additional information on the identified deficiencies. At the time of writing this report, this additional information is not available for consideration.

In considering the applications as they stand at present the issues are:-

Application 08/1832/FL – Food retailer (Aldi);

The application would provide retail development outside of an identified town centre. The application fails to provide evidence that;

- i) there is a need; the submitted information fails to reflect the current situation;
- ii) that there is a need; the applicant has not clearly demonstrated a qualitative or quantitative need for additional convenience goods floorspace within the catchment the proposal is intended to serve;

- iii) that the need cannot be met in a sequentially preferable location; other sequentially preferable sites have been identified which are not considered by the applicant;
- iv) that no evidence has been put forward to justify the business model or evidence a flexible approach to that model in setting their minimum requirements for their site search;
- v) that recent developments and commitments have been considered in their assessment;
- vi) the scale of development sought, is required; the applicant uses inappropriate catchment to a discount store; that the development would not have an acceptable impact on the vitality and viability of existing town, district and local centres;
- vii) the location of the development meets the requirements for accessibility; the application fails to evidence that the site represents a sustainable location for the development sought; the evidence submitted is considered inadequate.

The consultants therefore recommend that the application for the Food retailer is contrary to the policies set out in PPS6, West Midlands RSS Policy PA13 and UDP policies S4, and S7. The policies are contrary to the approach detailed within Draft PPS4 but as a consultation draft, it would, as yet, carry little weight. Unless the applicant can provide evidence to satisfy the shortfalls identified, then it is recommended that the applications be opposed in the appeal on the above grounds.

Application 08/1833/FL – Catalogue retailer (Argos)

The application would provide retail development outside of an identified town centre. The application fails to provide evidence that;

- i) there is a need particularly for comparison goods; the submitted information fails to reflect the current situation;
- ii) that the need cannot be met in a sequentially preferable location; the proposals would create an uplift in the retail offer in an out-of-centre location which would be at the expense of the town centre and contribute to the shift in focus away from the town centre; the application therefore fails to demonstrate that the proposals could be accommodated without adversely impacting the vitality and viability of existing centres;
- iii) there is a need; it fails to demonstrate the requisite level of need is evident for the suggested two-store strategy approach in this location;
- iv) the proposals would constitute broadening the range of goods in an out-of-centre location when there are more suitable and sequentially preferable sites that the applicant has omitted from consideration.
- v) the location of the development meets the requirements for accessibility; the evidence submitted is considered inadequate.

Consultants therefore recommend that the application for the Catalogue retailer is contrary to the policies set out in PPS6, West Midlands RSS Policy PA13 and UDP policies S4 and S7. The policies are contrary to the approach detailed within Draft PPS4 but, as a consultation draft, it would, as yet, carry little weight. Unless the applicant can provide evidence to satisfy the shortfalls identified, then we would recommend that the applications be recommended for refusal on the above grounds.

Transportation issues

Food retailer (Aldi):

The proposed variation of condition will result in a minimal increase in the overall trip generation of the Retail Park. However it is considered that the junction modelling undertaken with the Transport Assessment demonstrates that the increase in trips does not have a material impact on the operation of the existing traffic signal junction of Broadway West and Bescot Crescent.

Currently the Retail Park is within 400 metres of bus stop, that is serviced by the 405 bus service. The frequency of this service is :-

- 15 mins Mon both peak and day time, and 30 min evenings.
- 20 mins Sat peak times, 15 mins day time and 30 mins evenings
- 30 mins Sun peak, day and evening times.

This therefore complies with policy T12 of the UDP except part (c) II. This part states that “Bus services should operate during working hours from all parts of the catchment area directly to the facility..” However the Highway Authority considers that due to the fact that there is already a planning permission in place for the Retail Park based on the current bus service then this does not warrant an objection on highway grounds.

Catalogue Retailer (Argos):

The proposed variation of condition will result in a minimal increase in the overall trip generation of the Retail Park. However it is considered that the junction modelling undertaken with the Transport Assessment demonstrates that the increase in trips does not have a material impact on the operation of the existing traffic signal junction of Broadway West and Bescot Crescent.

Currently the Retail Park is within 400 metres of bus stop that is serviced by the 405 bus service. This frequency of this service is :-

- 15 mins Mon both peak and day time, and 30 min evenings.
- 20 mins Sat peak times, 15 mins day time and 30 mins evenings
- 30 mins Sun peak, day and evening times.

This therefore complies with policy T12 of the UDP except part (c) II. This part states that “Bus services should operate during working hours from all parts of the catchment area directly to the facility..” However the Highway Authority considers that due to the fact that there is already a planning permission in place for the Retail Park based on the current bus service then this does not warrant an objection on highway grounds.

Recommendation – that had members got the jurisdiction to determine the application, they would:-

REFUSE Application 08/1832/FL – Food retailer (Aldi) for the following reasons:-

The proposed variation of condition would provide retail development outside of an identified town centre. The application therefore fails to provide evidence that:

- viii) there is a need; the submitted information fails to reflect the current situation;
- ix) that there is a need; the applicant has not clearly demonstrated a qualitative or quantitative need for additional convenience goods floorspace within the catchment the proposal is intended to serve;
- x) that the need cannot be met in a sequentially preferable location; other sequentially preferable sites have been identified which are not considered by the applicant;
- xi) that no evidence has been put forward to justify the business model or evidence a flexible approach to that model in setting their minimum requirements for their site search;
- xii) that recent developments and commitments have been considered in their assessment;
- xiii) the scale of development sought, is required; the applicant uses inappropriate catchment to a discount store; that the development would not have an acceptable impact on the vitality and viability of existing town, district and local centres;
- xiv) the location of the development meets the requirements for accessibility; the application fails to evidence that the site represents a sustainable location for the development sought; the evidence submitted is considered inadequate.

The proposal is therefore contrary to the policies set out in PPS6, West Midlands RSS Policy PA13 and UDP policies S4, and S7.

REFUSE Application 08/1833/FL – Catalogue retailer (Argos) for the following reasons:-

The proposed variation of condition would provide retail development outside of an identified town centre. The application fails to provide evidence that:

- vi) there is a need particularly for comparison goods; the submitted information fails to reflect the current situation;
- vii) that the need cannot be met in a sequentially preferable location; the proposals would create an uplift in the retail offer in an out-of-centre location which would be at the expense of the town centre and contribute to the shift in focus away from the town centre; the application therefore fails to demonstrate that the proposals could be accommodated without adversely impacting the vitality and viability of existing centres;
- viii) there is a need; it fails to demonstrate the requisite level of need is evident for the suggested two-store strategy approach in this location;
- ix) the proposals would constitute broadening the range of goods in an out-of-centre location when there are more suitable and sequentially preferable sites that the applicant has omitted from consideration.

- x) the location of the development meets the requirements for accessibility; the evidence submitted is considered inadequate.

The proposal is therefore contrary to the policies set out in PPS6, West Midlands RSS Policy PA13 and UDP policies S4 and S7.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/0961/FL

Application Type: Regulation 3 Consent (V)

Applicant: Walsall Council

Proposal: Change of use of part of George Rose Park, to part of Darlaston Community School and erection of fencing

Case Officer: Bob Scrivens

Telephone Number: 01922 652488

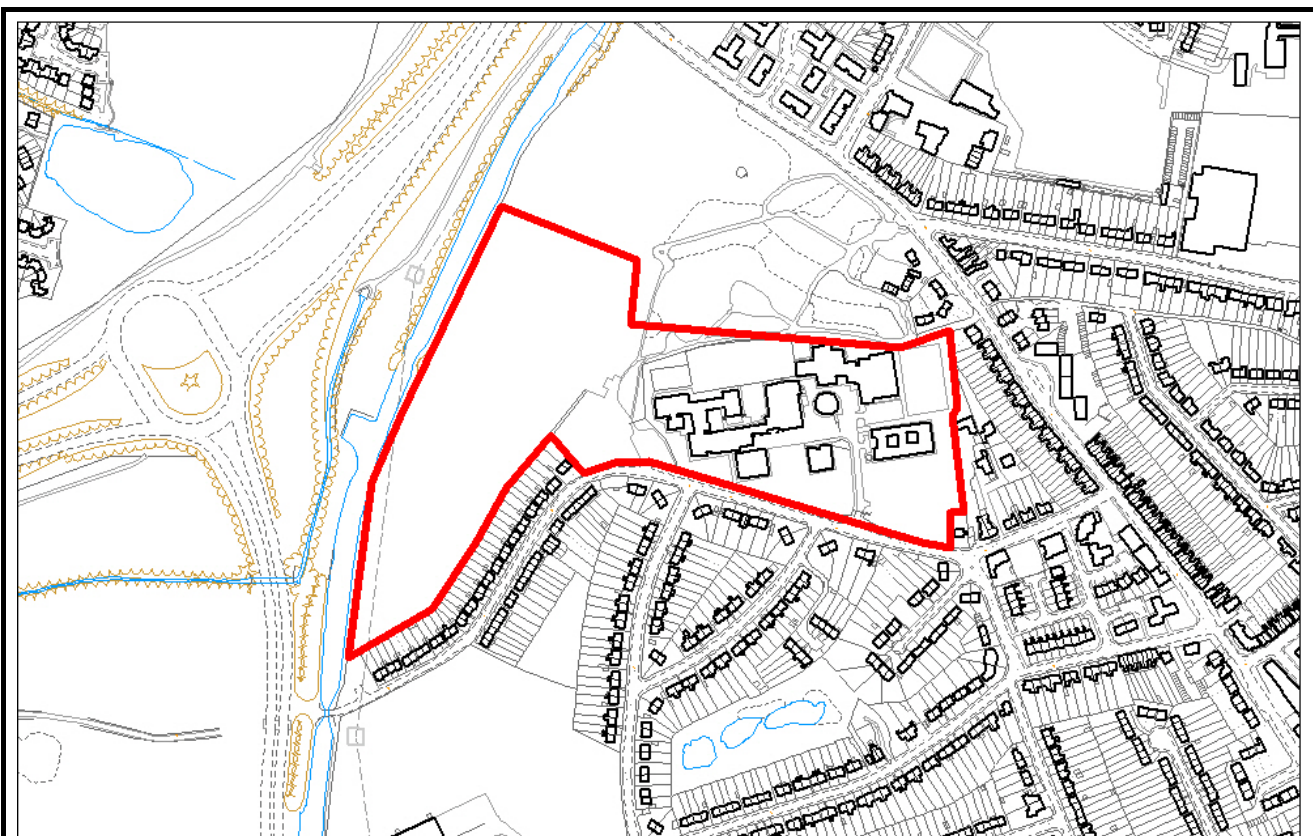
Agent: Seymour Harris Architecture

Location: DARLASTON COMMUNITY SCHOOL, HERBERTS PARK ROAD, DARLASTON, WALSALL, WS10 8QJ

Ward: Darlaston South

Expired: 02/11/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The application is to fence an area of George Rose Park, and change its use from part of the park to part of the adjoining comprehensive school, as playing fields. The proposed development site intends to annex 52% of the current area of George Rose Park, which is designated as urban open space in the adopted Walsall UDP.

The Design and Access Statement states that a capital fund has been set aside for improvement works for the rest of the park. It also states that *“the civic and public enhancement of the school within its community context is a strong driver for redevelopment and controlled access and usage of the new Academy and grounds by the school and the community.”* The statement also refers to strong community support for the new Darlaston Academy, not only from staff, pupils and parents from the local area but also from local community engagement groups such as Darlaston Youth Services.

New fencing is also proposed around this area, and much of the existing school boundary. The fencing proposed is Weldmesh a proprietary form of fence, the panels are made up of fine wire, welded at frequent intervals. It is a very secure style of fence, but its visual impact is less aggressive than, for example, steel palisade fencing. In this case, the Weldmesh fence is proposed to be plastic coated in a green colour.

The school presently make use of this area but that use is limited, as both pupils and staff have been abused by the public, and there may also be insurance issues.

The level of use will increase, if the site is fenced as proposed, and it will be used on a daily basis.

The application is supported by a range of information pointing towards the redevelopment of the larger school site. It is not part of the current application (though a number of responses have touched on it).

The redevelopment is the subject of a subsequent application, for new buildings and the rearrangement of the open areas on the site. It will be reported to a future meeting.

Relevant Planning History

None.

Relevant Planning Policy Summary (*Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website*)

Unitary Development Plan (UDP)

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

3.16, GP7, ENV32, and 3.116: seeks the design of developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.17 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

LC1: on Urban Open Spaces states that proposals for development which would result in a loss of, or otherwise adversely affect, urban open spaces will not be permitted unless it can be demonstrated that, in particular, none of the following functions would be prejudiced

- Redressing or avoiding deficiency
- Providing for sport and recreation, both formal and informal
- Providing for children's play
- Contributing to biodiversity

though it also provides for the consideration of appropriate compensatory provision

LC6 controls the loss of playing pitches, seeking either a demonstration that there is no need for the facility, or compensatory provision.

T7: All development should satisfy the car parking standards set out in Policy T13. All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment.

T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated.

Retail development should provide a maximum of 1 space per 14sq.m. of gross floorspace, at least 1 bike stand for every 20 car parking spaces and taxi facilities.

Local Development Framework (LDF)

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in October/November 2008 following a further period of public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

Green Space Strategy Audit & Assessment Report (2006)

George Rose Park is assessed as High Value but Low Quality and therefore the Council has a commitment to raising the quality of the park where possible and protecting the site through the planning process.

Supplementary Planning Documents (SPD)

Designing Walsall SPD

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;
DW6 – Legibility - new development should contribute to creating a place that has a clear identity;
DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

Natural Environment SPD

Policies N8, N9 & N10 deal with the need to fully assess, protect and secure compensatory planting for trees. Protection is proposed for protected animals, plants etc.

Regional Spatial Strategy for the West Midlands (RSS 11)

The Regional Spatial Strategy has been revised and republished on 15th January 2008 to reflect the first Phase of Review. The Strategy seeks to provide broad regional directives and recognises the role of the regeneration of the Black Country to the overall performance of the West Midlands Region. The next phases of review are underway.

The focus for the Black Country policies is to continue its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall) to create modern and sustainable communities.

Overall the strategy promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

A major challenge for the Region is to counter the unsustainable outward movement from the Major Urban Areas of people and jobs (3.4(a)). Relevant policies include:

Policies UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality. The policies also aim to enhance public spaces and urban green space.

There is no need for this application to be considered under the Conformity Protocol.

National Policy

Planning Policy Statement (PPS) 1: PPS1 indicates that planning policies should promote high quality inclusive design in the layout of new developments and individual buildings and that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted." Paragraphs 33 to 39 also state the importance of good design.

Planning Policy Guidance (PPG) 17: Planning for Open Space, Sport and Recreation is of particular relevance, concerning maintaining an adequate supply of open space and sport and recreational facilities.

PPS25 on flooding and related issues.

Consultations

Regeneration Strategy Team

application can be supported, provided:

- improvements can be secured to George Rose Park that would raise the overall quality of the park and outweigh the loss of urban open space;
- measures can be put in place to secure community access to and use of the sports facilities to be provided;
- equal compensatory provision for sports pitches, which may be lost as part of the annexing of a significant area of the current park, will be made either on or off-site.
- on the information available, the benefits of the development, namely much improved educational facilities, considerable improvements to presently low quality open space at George Rose Park, and secured community use of new sports facilities (including sports pitches) on the proposed development site would significantly outweigh the loss of an area of urban open space.
- the proposed development is acceptable in principle in policy terms.

Transportation - No Objection subject to gates being set back 5 metres from the edge of the highway, to enable a vehicle to be temporarily stationed clear of the footway prior to entering the site.

Pollution Control - Contaminated Land Team

Some concerns about ground conditions. These are particularly relevant to the wider scheme for the school which may be impacted by residual contamination arising from previous land uses.

Pending that scheme coming forward, this application is essentially an “enabling” process, conditions are recommended that will prohibit any physical development (other than the erection of the proposed fencing), landscaping or changes to the land to be acquired from the existing park and ensure that spoil or debris from works to erect or realign the boundary fence are dealt with appropriately.

Pollution Control Scientific Team - No objection to this proposal in principle.

A Note for Applicant has been provided however to alert the applicant to issues that must be addressed at the next stage of development.

They consider the concrete fence at the side of 70 Herbert's Park Road should be retained.

Regeneration (Trees): Natural Environment - no objections

The existing tree constraints are not significant enough to warrant consideration of this application for refusal, due to the lack of significant arboricultural implications.

Severn Trent Water

No objection subject to condition and note for applicant.

Environment Agency

In the absence of a flood risk assessment (FRA), **OBJECT** and recommend refusal because the majority of the application lies within Flood Zone 1 defined by PPS25 as having a low probability of flooding, with a small section shown as Flood Zone 3 (high probability of flooding). However the proposed scale of development may present risks of

flooding on-site and/or off-site if surface water run-off is not effectively managed. In the absence of an FRA, the flood risks resulting from the proposed development are unknown. In relation to a surface water drainage strategy, Building Regulations 2000 encourages a SUDS approach.

Drainage – satisfactory.

Severn Trent - No objection subject to conditions

Sport England

No objection subject to comments:-

The erection of fencing will not lead to any quantitative loss of playing field but it will have the effect of severing the playing field. This will prevent unmanaged public access to the area subject to this application. This is normally of concern, but we have been consulted on the overall development of the Academy.

It is understood that it is proposed to construct the new academy on existing playing field. However, to compensate for this loss, the existing building footprint will be converted into new outdoor sports provision. In terms of quantitative losses and replacement provision (sqm), it appears that the area of 'replacement' outdoor provision as a whole will be greater than the overall area of outdoor sports provision to be lost. It is understood that this new provision will be available for structured use by the community and these arrangements will be secured through any planning permissions.

Natural England - no objection

There could be a possibility of water voles being present and this should be investigated.

Natural Environment – no objection subject to conditions

Information is available that there may be wildlife on the southern part of this area, which would need the proposed fence to include access arrangements to allow foraging. The Weldmesh fencing may have difficulties in handling levels changes, and this needs to be addressed. A landscape scheme is appropriate inside the new fencing.

Landscape Design – no objection in principle. Palisade fencing should be painted not left simply galvanised. This may be difficult where there are also hedges.

Centro

None of Centro's existing infrastructure would be adversely affected. The application site is well served by existing bus services with the 334 and 339 services (Bilston to Walsall via Darlaston) stopping close to the site.

The current Planning Application is unlikely to impact upon the public transport network but consideration should be given now to the future proposals for the Academy.

It is recommended that the school revisits their Travel Plan. In particular, it will be important to assess pedestrian and cycling provision. There will also be a need to look at car parking provision and consider the possibility of staff car sharing to the site. The Travel Plan should make provision for continual monitoring of travel habits and set targets for modal shift as appropriate.

British Waterways

no objections subject to conditions and/or the applicant first entering into a **legal agreement** relating to:

BW has a pumping shaft in George Rose Park, and any capping/grouting/infilling of the mineshafts may affect it.

The retention of existing landscaping along the boundary and the provision of additional native landscaping is welcomed

While the provision of weld mesh fencing (dark green) is preferable to palisade fencing, roll top or blunt top fencing is the most ideal visual form of boundary treatment finished in either dark green or black.

During construction and operation of the site, British Waterways would require the works, handling, storage and disposal of waste generated by construction and operation to be carried out in accordance with relevant legislation and regulatory requirements. Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided.

As the application site is adjacent to the towpath, pedestrian and cycle connections could be made to the local area via a direct and sustainable route. Barnes Meadow Bridge to the south of the application site is well used by the local community and a link to the community school via the towpath would be beneficial to local residents.

British Waterways seeks funding from all new developments within and immediately adjacent to the canal corridor, where appropriate, towards improvement works in order to create an attractive, accessible and bio diverse canal corridor. The development warrants contributions for the following, and their approximate monetary values are set out:-

- Access improvements at Barnes Meadow Bridge - to improve pedestrian access to and from the towpath via the Barnes Meadow Bridge for canal corridor users and to benefit the Community School pupils £10,000 (based on previous access improvements which have ranged from £10,000 to £40,000)
- Removal of graffiti from all surfaces of Barnes Meadow Bridge £5,900 (based on £2,000 to mobilise plant and equipment plus removal of graffiti over 78 square metre area at unit cost of £50 per square metre)
- Works to repair motorcycle barriers £400 per barrier (general indicative cost may be higher depending on specifics)
- Management of the trees and vegetation along the canal between Barnes Meadow Bridge and Porketts Bridge (north of the application site) £6,300 (based on 630 metres of canal embankment at unit cost of £10 per linear metre)

Inland Waterways Association – object.

Loss of the majority of the park would have a negative effect on canal users and local people, contrary to Government agenda of providing easy access to public open space. Loss of park means greater risk of activity next to the canal which is dangerous near deep water. Puts lives at risk.

Welcomes less visually obtrusive fencing.

Fencing could disturb habitat such as birds and needs to be done properly.

Monarch's Way Association – Interest stems from The Monarch's Way Long Distance Footpath which utilizes the towpath of the Walsall Canal at the perimeter of the proposed 'change of use' site. Initially concerned at possible implications but on the assumption that the canal towpath will not be encroached upon, withdrew their holding objection.

National Grid

On site risk assessment is moderate. Range of guidance is available.

Access Officer - No comments at this stage.

Fire Service - satisfactory.

Representations

There have been objections from 5 residents, on the following issues.

On a wider basis, the other objectors refer to:-

- Over half of the existing park is to be completely sealed off from the public - are the pupil numbers at Darlaston Community School to increase by such a significant number to justify the requirement for what must amount to over a doubling of the space required?
- In the initial short consultations for the academy the question was asked and a response was given to that the academy could be built on a smaller site
- The park was created for the people of Walsall – scheme is taking free to use open public green space from the local public and spoil this beauty spot
- Shared use of school facilities will be charged for and this will discourage use – putting more pressure on remaining park
- Darlaston has not got enough large freely accessible public green space for the use by general public which was also remarked upon in the Walsall Green Spaces strategy
- Improvements to the rest of the park will not compensate for proposed losses
- Improvements will be damaged by vandals anyway
- There is a need for more exercise in the population at large so we need this green space
- The park is well used by young and old
- It is argued that the park needs to be reduced in area to deal with problems of abuse such as motorbikes – this scheme will not solve those problems
- The need to take away this substantial amount of green space is unnecessary when Darlaston also has a vast number of empty brown field sites
- A number of elderly and disabled people use the footpaths through the park to get to the nearest bus stop, shops and schools – the alternative is much longer
- Why does the scheme need this much space
- Playing fields should be shared with the public
- Risk of loss of trees
- Scheme should leave a margin along the canal for wild habitat and a pathway for walkers, especially as this is currently a habitat for local wildlife (many cabbage white butterflies have been seen here, for example)
- Not against the academy or building one on the current Darlaston Community Science College site, but against the loss of a substantial part of George Rose Park

One resident lives adjacent to the car park in the park. There is a concrete fence on the boundary, erected by the council following an agreement to compensate for the change of the then-tennis courts to a car park. The fence provides security, privacy and noise reduction. The scheme is acceptable if the fence is retained, otherwise he objects if it is to be removed and not replaced with something as good. In addition, he objects to the proposed accesses for the Academy

A number of comments about the wider redevelopment scheme are also made, but these have been excluded from this list, unless they are relevant to the present scheme. Such issues need to be considered in the redevelopment application.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

The redevelopment of the school is not part of this application. A number of representations and consultations have, however, raised issues which relate to that redevelopment. Others have made assumptions about the present proposal which expect that redevelopment to occur. The approval of this application would allow the implementation of the change of use and fencing without any redevelopment. The decision on this application must be made on the basis that it could be the only development of the site which takes place, and judgements made need to reflect that possibility.

- Principle of development
- Environment Agency objection
- Loss of land in the park
- Restrictions on use of park
- Public access to the park
- Traffic implications
- Ground conditions
- Trees on site
- British Waterways contributions and Percent for art

Observations

Principle of development

The UDP seeks to improve education facilities. It also seeks to improve parks and open spaces. It follows that the scheme is acceptable as long as the conclusion is reached that the impact on the park is acceptable. This is examined under some of the following sections.

Environment Agency objection

The objection is to the absence of a flood risk assessment (FRA), and because the majority of the application lies within Flood Zones. However the boundary of the application is the existing park boundary along the canal, and the Council's mapping system shows that the flood zone extends only about 16 metres into park at most.

Officers have queried the EA on their position, and the EA have offered further justification. However, officers do not find the EA's position persuasive, as the application is just to use the park as school grounds and erect a simple fence

EA have also argued that because the proposed development site is larger than 1 hectare, a flood risk assessment must be submitted to ensure that surface water on the site can be safely managed and demonstrates that the development will not flood third party land. Again, this is not persuasive, as this is an application to use the park as school playing fields and erect a fence so the storm water regime will be unchanged.

EA have been invited to reconsider their position, but have not responded further, at the time of writing.

It is clear that the issues the EA are raising will be much more relevant to the outline application for the new school buildings, and the consideration of that application. In due course, must address the question.

In relation to surface water drainage strategy, The Ea point to the Building Regulations encouraging a SUDS approach. This is again not seen as relevant to the present proposal, as no new sources of drainage are proposed.

Loss of land in the park

The proposed development would significantly reduce the area of the existing park. But, providing adequate improvement works to the remainder of the park are carried out, the park would maintain a high value to the local community. Improvement works should also help to address anti-social behaviour issues that are currently present within the park.

The potential for long-term benefits, as a result of improved educational facilities, to the local community from the proposed development will outweigh the loss of open space. However this will only be the case if community usage of new Academy sports facilities, such as playing pitches, are factored in.

A condition is recommended, to ensure that community use is a requirement, to address both sides of this question. Some objectors point to the implications of charges on potential use of such facilities. There is nothing in the Development Plan to require such facilities to be free, and the pressure on local authority finance, in general, is leading a trend away from free use of council facilities. This is not seen as a critical issue for the determination of this application.

Restrictions on use of park

Residents have pointed to an alleged restriction on the park, as a result of the terms of its creation.

Conveyancing have confirmed that the council owns the land and free from any restrictions which would prevent the land being developed for, or leased to, the Academy.

Public access to the park

Residents allege there are rights of way through the park.

It is clear there are no definitive footpaths in the park.

The terms of their comments offer a prospect that there could be prescriptive rights of way (these are not recorded on the definitive maps). Proof has not been offered of their status. If they do exist, then the applicant can not close them without due process, in other words erecting the fence may not be possible.

It is not an issue that can be resolved by the planning process, other than to note that a planning approval offers the prospect of closure, in order to implement the permission. Approving this application could pave the way for closure (if that is necessary).

The value of the routes through the park need to be weighed against the gains to the community from the creation of an improved school. Overall, the application is supported.

Traffic implications

Transportation see this application as raising no issues. That conclusion is accepted.

Ground conditions

It is clear from the records that ground conditions are poor. However, this is an application to use the surface for a use very similar to its present use. On that basis this is not an issue, provided that the restrictive conditions suggested by Pollution Control are put in place, as recommended.

Trees on site

The site boundary has several trees of varying species, ages and sizes which may be affected by the proposed new fencing. These trees warrant retention. In the vast majority of cases, the existing fence can be replaced with little detriment to the existing trees, subject to the contractor taking care. However, there are 3 instances where the fence must be re-aligned to avoid direct conflict with the existing trees. One is on the west boundary (opposite the pylon on the west bank of the canal), one is on the north side of the existing school building, the remaining is on the left hand side of the existing access.

The existing trees on the submitted drawing do not correspond with the trees on site. It would be prudent to condition the submission of details in this respect so that the position with regards to tree retention is absolutely clear.

Although not directly tree related, this approach can also be used to deliver a suitable fence along the boundary of the house adjoining the entrance area (the concrete fence referred to by the objector).

British Waterways contributions and Percent for art

As set out, a range of contributions are sought.

The applicants have advised there is no financial scope for such work to be paid for by the project. This is noted. A condition is recommended, to deliver art work as part of the development (as it is important for the Council to be seen to do such things). However, the justification for work on British Waterways property is more nebulous and can not be recommend as a requirement for this application.

Summary of Reasons for Granting Planning Permission

The Development Plan seeks to improve education facilities, parks and open spaces. The conclusion is reached that the terms of this decision achieve those objectives.

The proposed fence raises detailed issues about wildlife, levels and the protection of and adjoining dwelling. These are addressed through conditions.

A landscape scheme is appropriate inside the new fencing, and again is addressed through a condition.

The Environment Agency object to the lack of a flood risk assessment. As the application is solely to use the park as school grounds and erect a simple fence, the storm water regime will be unchanged, and the lack of such an assessment is not significant.

They also encourage the use of SUDS as part of a surface water drainage strategy. This is again not seen as relevant to the present proposal, as no new sources of drainage are proposed.

There are objections to the loss of part of the Park, and it is argued that this is an unnecessary loss in an area short of freely accessible green space for the public. It is also argued that the improvements to the rest of the park will not compensate for proposed losses. The proposed development would reduce the area of the park, but, improvement works are proposed to the remainder that will maintain a high value to the local community. Improvement works should also help to address anti-social behaviour issues. There are concerns that charges for the shared use of school facilities will discourage use. Measures can be put in place to secure community access to and use of the sports facilities to be provided; but there is no justification in planning terms to control charges for such facilities.

The Development Plan envisages compensatory provision for sports pitches which may be lost, and none are proposed. However, the potential for long-term benefits, as a result of improved educational facilities, to the local community from the proposed development should outweigh that loss.

Residents allege there are rights of way through the park. There are no definitive footpaths in the park. There could be prescriptive rights of way, but this is not an issue that can be resolved by the planning process.

The value of the routes through the park need to be weighed against the gains to the community from the creation of an improved school, but the conclusion is reached that the proposal is acceptable in these terms.

Centro seek revisions to the school's Travel Plan. While the significance of this for the school is recognised, it has no direct relevance to the present proposal, and can not be justified as a requirement of this permission.

Ground conditions are recognised to be sensitive. Conditions are imposed to control this. Trees on site are at risk from the construction of the fence. This is controlled by condition. British Waterways seeks funding for improvement works to the canal corridor. While the value of the canal corridor for the local environment is recognised, the present scheme is not of a scale that justifies such a requirement.

A percent for art contribution is required by the Development Plan. And this is delivered by a condition.

Overall, the benefits of the development, namely much improved educational facilities, considerable improvements to presently low quality open space at George Rose Park, and secured community use of new sports facilities (including sports pitches) on the proposed development site significantly outweigh the issues raised by consultation responses and representations.

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies 2.2, GP2, GP4, 3.6, 3.7, 3.16, 3.17, ENV32, ENV33, and LC1 and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

While not a planning matter, ownership restrictions are identified by some representations. The council owns the land free from any restrictions which would prevent the land being developed as proposed.

Public reaction to this application has also attracted comments about the wider redevelopment scheme. That is not part of this application, and these comments need to be considered, separately, in relation to any redevelopment application that may come forward.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. Prior to commencement of school use of the site, a Community Use Agreement shall be submitted to and approved in writing by the Local Planning Authority which secures the delivery of increased participation in sport and physical activity by maximising the range of sports opportunities for school pupils, local/regional sports clubs/bodies and the local community through the use of the site. The Community Use Agreement shall be implemented in accordance with the approved details.

Reason: To control the impact on sports facilities from the development.

3. No development shall be carried out until a scheme of improvements to George Rose Park, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented in accordance with the approved timetable.

Reason: To ensure appropriate compensation for the loss of land to the park, to raise the overall quality of the park and outweigh the loss of urban open space;

4. Prior to the development commencing, the following details relating to a public art element of the scheme shall be submitted to and agreed in writing with the Local Planning Authority:-

- an artist's brief and contract to provide opportunities for high quality artisans and crafts people to work in the borough
- details of the selection process and interview process for the artist
- details of how the project will be managed and evaluated
- details of how the project will involve local communities that includes how the project will shape and engender improving civic pride
- timetable for the project to be brought forward, completed and installed

Following the public consultation, in-conjunction with the local planning authority, the agreed public art scheme shall be completed in accordance with the approved timescale.

Reason: To ensure the development complies with Policy EN34 of the Unitary Development Plan and Policy DW9 of the Designing Walsall SPD.

5. No development shall be carried out until details of any / all proposed vehicle access(es) to the site, and details of gates or other barriers, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved. There shall be no other vehicle access(es) to the site.

Reason: To ensure satisfactory vehicle access to the site.

6. No development shall be carried out until details of the painting of all existing palisade fencing to be retained (including techniques for preventing paint affecting existing vegetation adjoining such fences) have been submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented within 3 months of the any part of the development being brought into use.

Reason: To ensure the satisfactory appearance of the site.

7. Except for the erection of the boundary fence permitted by this planning approval no physical development, landscaping of soils, changes to the landform or excavations (other than for the purpose of ground investigation by suitably qualified personnel) shall be implemented on land currently within the park that is to be enclosed by the proposed fence.

Reason: To ensure safe development to protect as far as possible land users and the environment.

8. No spoil, debris or excess materials arising from any excavation or ground works undertaken in order to erect the perimeter fence permitted by this planning approval shall be deposited or redistributed on or at the surface level of the existing land form.

Reason: To ensure safe development to protect as far as possible land users and the environment.

9. No development shall be carried out until details to ensure that:-

- the works, handling, storage and disposal of waste generated by construction and operation are to be carried out in accordance with relevant legislation and regulatory requirements, and
- that potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site will be avoided,

have been submitted to and approved in writing by the Local Planning Authority. The approved scheme will be implemented before the development is brought into use, and thereafter retained as approved.

Reason: To control the risk of pollution.

10. No development shall be commenced until

- a) a detailed survey and assessment of trees, shrubs and hedgerows shall be carried out by a qualified arboriculturalist in accordance with BS5837 'Trees in relation to construction on site',

- b) the submission under part (a) of this condition will include details and positions of all trees on the site, and whether the tree is proposed to be retained, its species, trunk diameter, height, radial crown spread, height of crown clearance, general condition, recommended works, and the root protection areas for each tree proposed to be retained.
- c) details of the working method to be employed for the construction of the perimeter fencing within the Root Protection Areas of all trees to be retained. The details shall include, but not be restricted to, the dimensions of the post holes and method of securing, details of any machinery to be used for the demolition of the old fencing and erection of the new fencing, details of the extent of machinery use within the RPAs of trees to be retained, and measures to be employed to safeguard the long-term health and condition of the trees.

have been submitted to, and agreed in writing by the Local Planning Authority. The fencing shall be carried out in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policies ENV18 of the Walsall UDP 2005 and NE7, NE8 and NE9 of the Natural Environment SPD 2008 and to ensure that the development is carried out with the minimum loss of existing ecological features which are important to the amenity of the area.

11. No development shall be carried out until a detailed landscaping scheme for the site has been approved in writing by the Local Planning Authority. The scheme shall provide details of:-

- the submission of proposals to explore recycling insitu soils;
- revised wildflower seeding soil specification;
- revised tree pit/station detail;
- planting areas to be mulched to conserve soil moisture and reduce weed competition;
- lighting proposals;
- hard landscape proposals (materials and layout), walls, fencing/gates (materials, height), site furniture etc;
- maintenance plan for the establishment and longer term management proposals for planting and wildflowers

The approved scheme and maintenance plan shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

12. No development shall be carried out until details of

- How the fencing is to create access arrangements to allow foraging by wildlife on and around the southern part of this area
- How levels changes on the site will be handled by the proposed Weldmesh fencing

have been submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented as part of the erection of the fencing, and thereafter retained as approved.

Reason: To maintain foraging access for wildlife, and to ensure the satisfactory appearance of the fencing.

13. Unless otherwise agreed in writing by the Local Planning Authority

- , the development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority
- The approved plans shall be implemented in accordance with that approval before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

14. No capping or grouting of mineshafts on the site shall be carried out until details of such work have been submitted to and approved in writing by the Local Planning Authority. Filling and grouting will only be carried out in accordance with the approved details.

Reason: British Waterways has a pumping shaft in George Rose Park, and any capping/grouting/infilling of the mineshafts may affect it.

15. (a) If surface water run-off and / or ground water is proposed to drain into the waterway, details shall be submitted to and approved in writing by the Local Planning Authority before implementation.

(b) If any new foul or surface water drainage is proposed, that work shall not commence until plans have been submitted to and approved by the Local Planning Authority.

Reason: To determine the potential for pollution of the waterway and likely volume of water, and to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

16. The concrete barrier fence at the side of 70 Herbert's Park Road shall be retained in its present form.

Reason: To protect the amenity of that dwelling.

17. No external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

NOTES FOR APPLICANT

A) The applicant is advised to contact Mr Des Harris, Senior Third Party Works Engineer on 01827 252038 in order to ensure that any necessary consents are obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

B) British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal wall at this location.

C) The applicant is advised that any access to the towpath that is to be provided as part of the scheme will require an agreement with British Waterways.

D) The applicants are advised that this planning permission does not absolve them from complying with the relevant law applicable to wildlife, including obtaining and complying with the terms and conditions of any licences required as described in Part IV B of the *Circular 06/2005*.

E) The area of this proposed development has historically been utilised for industrial purposes including the production or storage of gas and the extraction of coal with subsequent infilling that may have resulted in localised ground contamination that may present Health and Safety implications for people undertaking ground works of any sort. No specific detail of ground conditions in the area is available other than that obtained from previous land use data and historic mapping. This information should be brought to the attention of the builder or contractor undertaking the development in order that they may implement any Health and Safety at Work precautions they feel appropriate when undertaking construction work at the site of the proposed development.

F) This proposal brings the school playing fields within an area which overhead power lines traverse. Guidance must be sought from E-On's Central Networks division regarding health and safety implications of the overhead power lines on site. In the first instance please contact Mr Adrian Firth, 132 kV Proximity Design Engineer on 08457 353637.

G) It should also be noted that the Black Country Spine Road that runs adjacent to the western boundary of the site has the potential to create disturbance from noise. The location of sports/leisure facilities should be considered very carefully if they will be made available to the general public.

H) There are sewers on the site. Public sewers have statutory protection and may not be built close to, directly over, or diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

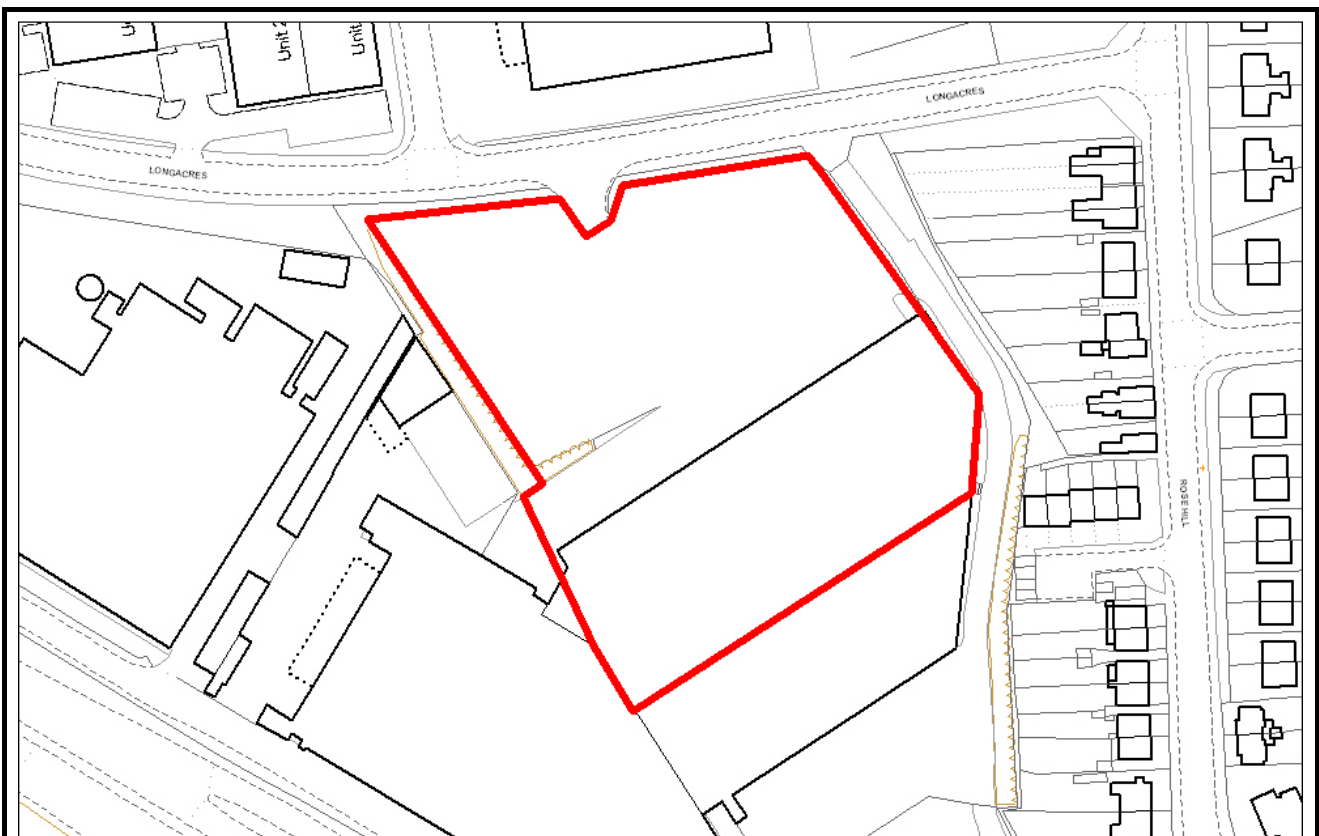
REASON FOR BRINGING TO COMMITTEE: Proposed enforcement notice

Application Number: 08/0894/FL
Application Type: Full application
Applicant: Hootys Supplies Ltd
Proposal: Variation of Condition 3b of
BC47202P to allow longer opening hours on
Fridays (09.00 to 21.00)

Case Officer: Jan Scrivens
Telephone Number: 01922 652436
Agent: Ms Sian Griffiths
Location: HOOTYS SUPPLIES
(WHOLESALE) LTD, LONGACRES
INDUSTRIAL ESTATE, ROSE
HILL, WILLENHALL, WV13 2JX
Expired: 08/08/2008

Ward: Willenhall South

Recommendation Summary: Refuse, Enforce & Prosecute



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Application and Site Details

This application proposes varying condition 3b of BC47202P to extend the opening hours of this store from 09.00 to 18.00 hours on Friday to 09.00 to 21.00 hours, on a permanent basis.

The hours approved under BC47202P were:

09.00 to 18.00 Mondays, Tuesdays, Wednesdays, and Fridays
09.00 to 21.00 Thursdays
09.30 to 18.00 Saturdays
11.00 to 17.00 Sundays and Public Holidays

These original opening hours have been amended before under planning permission 06/0389/FL/W3 to 09.00 to 21.00 on Mondays, Tuesdays and Wednesdays during the months of November and December only.

The application site boundary reflects that of BC47202P. This is not the whole of Hooty's current occupation site which has expanded from that of BC47202P. It now includes an attached building on the south side of the original building, and a vehicular access track between Hooty's building and the rear of houses in Rose Hill leading to a service yard at the rear (south) of the enlarged building.

There are no conditions relating to hours of operation on the additional land and buildings.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre and on the Planning Services Website www.walsall.gov.uk/planning)

Development Plan

GP2, 3.6 and 3.7 expect all development to contribute to the improvement of the environment. The Council will seek to protect people from unacceptable noise, pollution and other environmental problems.

JP76 identifies the site as part of a core employment area. These sites will be safeguarded for industrial use unless it can be demonstrated that a need would be met which cannot be satisfied elsewhere in the borough or the range and quality of employment opportunities would be significantly increased.

T7 and T13 relate to car parking.

Relevant Planning History

The application site

BC47202P Change of use to non-food store (Class A1). Granted subject to conditions 9.10.97. Conditions of this permission restricted the type of goods to be sold, hours of delivery vehicle movements and hours of customer vehicle movements and sales. The approved customer hours were as set out above.

BC55594P Retrospective: Retention of existing polytunnel and change of use of part of existing car park for the purposes of a garden centre. Granted subject to conditions 3.8.04

03/0990/FL/W3 Variation of condition 3(b) of planning permission BC47202P. Extension of opening hours. Granted for a period of three years. 23.9.03 to extend the opening hours on Mondays, Tuesdays and Wednesdays to 21.00 hours for the months of November and December.

06/0389/FL/W3 Permanent retention of extended opening hours (variation of condition 3b of BC47202P). Granted subject to conditions 28.6.06

The wider occupation site

BC14167P Change of use to wholesale cash and carry warehousing and light industrial. Granted subject to conditions 26.6.85

BC27946P Factory extension Granted subject to conditions 13.11.89

Consultations

Transportation: No objection

Representations

Objections to the application have been received from the occupiers of five properties in Rose Hill which back onto the access drive and delivery area. The grounds of objection are:

- additional noise from deliveries (including noise from unloading and noise from staff), this has now extended into the weekend; work seems to be starting earlier and earlier, including Sundays. Increasing the opening hours would allow large vehicles to deliver later; if the store opens an hour later it would take an extra hour for the noise to stop; at Christmas the store was open 24 hours for restocking ; most industrial estates do not operate 24 hours a day seven days a week but residents here have lorries day and night
- light pollution from the delivery area
- litter blows into gardens
- loss of privacy due to delivery lorries parking in the driveway and overlooking the rear of houses and gardens, also staff overlooking the garden; some kind of privacy screening should be erected
- the proposal will increase traffic by encouraging more people to visit the store, particularly at antisocial times; traffic queues on Rose Hill to get into the estate, particularly at weekends creating problems for ambulances and residents, making it difficult to get on and off driveways; traffic has increased partly due to the new housing in the area; at one time it was proposed to link Longacres to The Keyway which would improve the situation for the industries on the estate and the residents of Rose Hill

- traffic on Rose Hill causes poor air quality and makes houses difficult to keep clean
- will devalue property

Observations

- the planning status of the current site
- parking/servicing/traffic
- amenity of adjacent occupiers

The planning status of the current site

Hootys current occupation site was previously one site.

The drawings accompanying planning application BC14167P showed the front part of the site (i.e. the application site) to be used for wholesale cash and carry sales and the rear part of the building, the access drive and service area to be used for textile manufacturing with a warehouse. This division is less clear from the decision notice which gave consent for wholesale cash and carry warehousing and light industrial. The report which accompanied the application stated that both Hootys and B.Allen Ltd. have traded elsewhere on a cash and carry basis and it was intended to continue the arrangement here.

BC14167P did not give Hootys consent to use the former B. Allen Ltd premises for their current use since B. Allen Ltd. were a mixed factory/ cash and carry use and Hooty's does not contain any industrial element.

Hootys use of the former B. Allen Ltd. premises has only taken place since 2000 and as it can not claim a lawful use (i.e. less than 10 years) is therefore unauthorised. The agents for the application do not agree.

The application site has planning permission for retail sales. It had an earlier permission as a trade cash and carry. That has continued after the introduction of the retail use.

The remainder of Hootys current occupation site, which was formerly used by B. Allen Ltd., consisting of the access drive to the east of the building, the rear part of the building and the service yard were not part of the application site of BC47202P and are not controlled by any hours restrictions.

Since 2000 the access drive and service yard have been used for deliveries to Hootys and the rear part of the building (the former B. Allen Ltd.) now also forms the trade entrance, with the service yard also providing customer parking. The current site has therefore become a mixed retail and wholesale cash and carry use, of which the application site forms a lawful part and the remainder is unauthorised. The two 'sites' are however inextricably interlinked now, since they are both serviced by the access drive, are both occupied by the same business and the former B. Allen site provides delivery and office facilities for the whole business in addition to being the trade entrance.

It would be possible to determine this application irrespective of it being part of the larger occupation site since it relates to the activities of retail customers who are only in that part of the building to which the application relates.

Parking/servicing/traffic

The store would not require additional car parking as a result of this application, since the parking requirement is based upon floorspace.

The lengthening of the store's opening hours for retail customers would have little impact on the functioning of the public highway since they and any staff required to serve them would largely be travelling outside rush hour.

It need not necessarily have any impact on deliveries to the store, although in practice it may result in more and/or later deliveries simply because the store is open to receive them. It would also involve staff being present later at the store.

None of this is likely to be a problem in highway terms because the hours involved are outside peak times. The access is not ideal but it is the existing access to the rear part of the building. Transportation has not objected to the proposal.

Amenity of adjacent occupiers

Neighbour objections centre around noise, activity, light pollution and litter from the servicing and staff parking arrangements, with objections also about the amount of traffic using Rose Hill. The length of time which it takes for the site to close down after the building has shut is also mentioned as a problem; this may imply that customers vehicles are not leaving the premises by the stated hours and as such warrants further investigation. Neighbours are concerned that an extension to the opening hours will exacerbate these problems.

Light pollution and litter are matters which can be dealt with by Environmental Health.

Currently the permitted hours allow a late night of 21.00 hours all year round on Thursdays only and on Monday to Thursday solely during the months of November and December, so neighbours have had the opportunity to experience how the site behaves at these times.

The hours of operation approved under BC47202P related to a store which had all its parking and servicing on the northern frontage of the site. The area then in use by Hooty's was also smaller than the current occupation site. In acquiring and using the building at the rear and the access drive and servicing area, the applicant's have increased the impact of their business on the residents of Rose Hill, though clearly any changes must be weighed against the lawful entitlement and consequences of the previous use.

The approval of this application has the potential to increase the impact of the activity on the drive and service area further than that fallback position (for example, most factories have a clearly defined working day, finishing about 6 p.m.). As a result of this application, shoppers will be at the site for a longer period than at present, as will staff; and the store will take a correspondingly longer time to close down on Fridays. The extended opening hours would not necessarily generate additional deliveries but if the store is open for a longer period there will be an increase in the time in which deliveries can be made and

unloaded. The opening hours for cash and carry customers could also be increased if the building is open for longer.

Although the drive and service area are outside the site they are within the control of the applicant. It would be possible to place conditions on any planning permission to extend the hours which relate to the use of the service area and access drive, but only in so far as they relate to the proposed development. The extension of the customer opening hours would only be a contributing element to the problems which this site gives and restricting the location and timing of parking, cash and carry activities and deliveries by condition in this instance would not be imposed only as a direct result of this application but in response to an unresolved wider problem with the unregulated use of part of the site.

Conclusion

Until the use of the whole site is regulated and the problems experienced by neighbours resolved, the grant of any planning permission to extend its operating hours is premature and would exacerbate the problems currently experienced by neighbours to the detriment of their amenity. It is therefore recommended that this application is refused.

Proposed enforcement action

Hootys have been invited to make a planning application to regularise the use but have declined to do so. It is therefore recommended that authority is given to take planning enforcement action to ameliorate the problems experienced by neighbours.

While it would be possible to take enforcement action against the use of the rear part of the building (i.e. the portion of Hooty's site which is outside the boundary of application 08/0894/FL) its use for a mixture of retail and cash and carry has been considered acceptable for the remainder of the building. It is not therefore proposed to enforce against the use as such but instead to under enforce.

It would be necessary to restrict the goods sold to those approved under BC47202P to provide consistency with the rest of the building and to avoid conflict with retail policy.

The use of the service yard and access track to the enlarged store has given rise to a loss of amenity. for the adjacent residents in Rose Hill.

It would be possible to require the use of these to cease and servicing to take place at the front of the building. Servicing at the front of the site would however create a conflict with, and a reduction of, customer parking. This would be detrimental to the functioning of the site and the adjacent highway since the car park appears to be almost fully used on a regular basis.

This course of action would also be excessive, since the service yard and access track were previously part of the former, authorised use, without attracting complaints.

Planning permission BC47202P included a condition restricting delivery vehicle movements to 07.00 to 19.00 on Mondays to Fridays and 07.30 to 13.00 on Saturdays, with no deliveries at all on Sundays, Bank or Public Holidays.

It is proposed that the use of the access track and service yard for deliveries be subject to the same hours restrictions as BC47202P for consistency.

The use of the access track and service yard by cash and carry customers would similarly have taken place as part of the previous authorised use. It is proposed to restrict the hours to those approved under BC47202P for consistency.

The access track and service yard have on occasion been advertised as 'overspill car park' for retail customers. This would represent an increase in the use of the service yard which is not acceptable due to the impact which the additional activity would have on residential neighbours.

Recommendations:

1. Authority is granted for the issuing of an enforcement notice under the Town and Country Planning Act 1990 (as amended) to require remedial action to be taken as set out below.
2. To authorise that the decision as to the institution of Prosecution proceedings, in the event of non-compliance with an Enforcement Notice, or the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of Injunctive proceedings, in the event of a continuing breach of control, be delegated to the Assistant Director – Legal and Constitutional Services in consultation with the Head of Planning and Building Control.
3. That, in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director – Legal and Constitutional Services in consultation with the Head of Planning and Building Control to amend, add to, or delete from the wording set out below stating the nature of the breach(es), the reason(s) for taking enforcement action, the requirement(s) of the Notice or the boundaries of the site.

Details of the enforcement notice

The breach of planning control:

Change of use of a building, service yard and access track from a mixed cash and carry and industrial use to a mixed cash and carry and retail use

Steps required to remedy the breach:

Either cease the use of the building for a mixed cash and carry and retail use or

1. Restrict the goods sold from the building to those permitted by planning permission BC47202P and
2. Cease the use of the access track and service yard for deliveries (including parking or waiting of delivery vehicles, delivery vehicle movements and unloading of deliveries) except between the hours of 07.00 to 19.00 on Mondays to Fridays, and 07.30 to 13.00 on Saturdays and
3. Cease the use of the access track and service yard for cash and carry customer vehicle movements and parking except between the hours of 09.00 to 18.00 on Mondays, Tuesdays, Wednesdays and Fridays, 09.00 to 21.00 on Thursdays, 09.30 to 18.00 Saturdays and 11.00 to 17.00 on Sundays and Bank and Public Holidays

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and in the months of November and December only, between the hours of 09.00 to 21.00 on Mondays, Tuesdays and Wednesdays and

4. Cease the use of the access track and service yard for retail customer vehicle movements and parking

Period for compliance: 2 months

Reasons for taking Enforcement Action:

- a) the use of the building for a mixed cash and carry and retail use, without a restriction on the goods sold from it, would be inconsistent with the planning approval given to the use of the remainder of the building and contrary to the reason for imposing the restriction on planning permission BC47202P which was to control the provision of retail outlets in Willenhall.
- b) the hours of use of the access track and service yard are at present uncontrolled and their more intensive use as part of a larger site has resulted in the occupiers of the adjoining houses in Rose Hill suffering a loss of amenity in the form of loss of privacy, increased noise and increased activity. The retention of the use without control would perpetuate this situation.

Recommendation: Refuse, Enforce & Prosecute

1. The application relates to only a part of the applicant's site. Neighbours have expressed concern in relation to the whole site about noise, deliveries both during the day and in the evening, increased traffic, litter, light pollution and the length of time it takes for the site to close after the store has closed to customers. Until the use and operation of the larger site can be regulated and the problems experienced by neighbours resolved, the grant of planning permission to extend the opening hours of part of the store would be premature and likely to exacerbate the existing problems. The approval of this application would therefore be detrimental to the amenities of adjacent occupiers and contrary to policies GP2, 3.6, and 3.7 of Walsall's adopted Unitary Development Plan.
-



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

Application Number: 09/0809/FL

Application Type: Full application

Applicant: Mr Sam Ahmed

Proposal: Change of use from A1 (Shops) to
A5 (Hot Food Takeaways)

Case Officer: Barbara Toy

Telephone Number: 01922 652429

Agent: PJ Planning Ltd

Location: 43 BOUNDARY
COURT, BOUNDARY ROAD,
STREETLY, WALSALL, B74 2JR

Expired: 17/08/2009

Ward: Streetly

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The site is situated on Boundary Road, set between the junctions with Hundred Acre Road Laneside Avenue . It comprises a retail shop within a local parade of 8 shops, with two storey residential accommodation above (16 x 1 bed flats), with service area and garage court set to the rear.

Public parking bays are set to the frontage, at right angles to Boundary Road, extending the length of the parade, with a capacity for approximately 18 cars.

The site is situated within a residential housing estate comprising predominantly two storey detached and semi detached houses. Bungalows providing accommodation for the elderly are set on the opposite side of Boundary Road.

All 8 shop units are vacant and have been for sometime, and only a small number of the flats above are occupied. Having been in a poor state of repair and of poor appearance for a number of years the building is currently in the process of being renovated and refurbished.

The owners have been marketing the shop units to try and secure future occupiers and bring the building back into use.

The development description has been amended since submission of the application, as future tenants become more clear, the application now seeks to change the use from A1 (shops) to an A5 (hot food takeaway) use.

The application proposes opening hours from 1100 till 2130 hours Mondays to Saturdays and 1100 till 2100 hours on Sundays. Ventilation and extraction equipment would be sited to the rear of the property, the applicant's agent has confirmed that a three stage extraction system, incorporating extraction hood filters, carbon filtration and a tertiary treatment such as electrostatic precipitation or odour neutralisation with anti vibrational mounts will be installed to comply with Defra Guidance, together with extraction ducting to the rear elevation projecting approx 1m above the roof line of the building.

A similar application for change of use to A3 (restaurant and cafe) at 39 Boundary Court appears elsewhere on this agenda.

Relevant Planning History

There is no planning history for the premises themselves.

Other hot food uses within the block

37 Boundary Court

BC18425P, change of use to hot food takeaway, refused 13-01-87

Reasons for Refusal:

1. Adversely affect the amenities of occupiers of dwellings in the vicinity by reason of increased noise, activity and general disturbance, particularly during anti social hours.

2. Would result in an intensification of traffic to the site and the surrounding neighbourhood resulting in increased parking in immediate proximity to a road junction, thus prejudicing the safety and free flow of traffic.

A subsequent appeal was dismissed on 12-08-87.

BC40727P, change of use from existing ground floor lock up shop to Indian takeaway, refused 31-03-94.

Reasons for Refusal:

1. Contrary to UDP Draft Deposit, in particular policy S11, in that it would be likely to result in increased levels of noise, litter, vehicular disturbance, activity especially in the evenings and malodour, all of which would be likely to be detrimental to the amenities currently enjoyed by the residents in Boundary Court, Sunnymead and the surrounding area.
2. It has not been demonstrated that the likely position of the fume extraction system can be installed without being detrimental to the visual amenity of the area without resulting in an adverse affect on the occupiers of the flats above the shops.

35 Boundary Court

BC48295P, Change of use of shop unit to fish and chip shop, refused 27-01-97.

Reason for Refusal:

1. Would be contrary to Policy S11 of the UDP in that it would adversely affect the amenity of residents within the vicinity of the site by reason of noise, litter, vehicular and general disturbance and the potential risk of malodour.

A subsequent appeal was dismissed on 25-09-97.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Walsall's Unitary Development Plan (2005)

GP1: Supports the sustainable location of development

3.7 seeks to protect people from unacceptable noise, pollution and other environmental problems.

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

II The creation or susceptibility to, pollution of any kind.

ENV10: Pollution

(a) II Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

(b) Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted.

S1: Definition of Town Centre Uses

(a) II Class A2 (Financial, professional and other services) offices

S6: Meeting Local Needs

Outside identified centre, existing local shopping, service, leisure, community and other facilities – in the form of shopping parades, clusters, single shops etc will be encouraged to continue to meet day to day needs of the community.

S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times to close at 2300 hours Monday – Friday and 2330 hours on Saturdays.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13

T13 Parking Standards

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50m²; then 1 space per 22m² of gross floor space. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

Designing Walsall (SPD) (Feb 2008)

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Regional Spatial Strategy for the West Midlands (PPS 11) (RSS) - Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes. There is no need for this application to be considered under the Conformity Protocol.

National Policy

PPG 24: Planning and Noise, the planning system should not place unjustifiable objects in the way of development which creates jobs and infrastructure, but must ensure that it does not cause an unacceptable degree of disturbance (para. 10). Noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00) (para. 12). There will also be circumstances when it is acceptable - or even desirable in order to meet other planning objectives - to allow noise generating activities on land near

or adjoining a noise-sensitive development (para. 18). Fast food restaurants pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Need to consider the noise generated within the premises and the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated.

Consultations

Transportation – No objections subject to condition relating to cycle storage and bin storage. In terms of the UDP parking provision standards the proposed uses do not require any additional parking requirements over and above that required for the current use. The site is in a parade of shops with public parking bays to the frontage, extending the length of the parade, with a capacity for approx 18 cars. This is considered adequate to serve the development and adjoining premises, when taking into consideration the potential for differing opening times and the location within a predominantly residential area where it is likely that a proportion of visitors will be non car users.

Pollution Control Scientific Team – Environmental Health should be consulted
Contaminated Land Team – No specific contaminated land requirements

Environmental Health – no objection in principle. The proposals would be 1 of 2 hot food uses in the block, which is situated in a residential area. The applicant proposes suitable and sufficient extraction and filtration equipment to mitigate concerns over malodour.

Strategic Policy – No objections in principle to the uses proposed. The site is situated in an out-of-centre parade of shops, there is no objection in terms of policy S6. It is not considered that the use as a restaurant, café or hot food takeaway would have any additional impact on the vitality and viability of the centre than the existing uses.

West Midlands Police – No objections to the proposed uses. The Boundary Court shops have historically been a problem for anti social behaviour and continue to be a source of complaints from local residents. Support for reuse of the shops rather than them looking an eyesore and encouraging illegal use. The owner has offered one of the shop units to the Local Authority/Police as a base, which would further discourage illegal use and assist the other shop keepers in the block by have a police/Local Authority presence on a regular basis. It is considered that any further anti social behaviour that may be associated with a hot food use would be more manageable than the existing situation.

Public Participation Responses

A petition against the proposals containing 83 signatures has been submitted. The petition objects to the proposed uses within any of the shops in the block, no restaurants, cafes, fast food or taxi offices. Normal shopping hours of 0700 – 1800 should be observed.

Twenty one letters of objection received, objecting on the following grounds:

- Attract more youths to the area in the evening, already have enough problems
- More noise and litter
- Work continuing on the building despite no planning permission
- Area around the shops and the building an eyesore.

- Hot food use would exacerbate existing situation and lead to further anti social behaviour
- Existing provision for hot food uses in the local area, takeaways, pubs and restaurants, no further required
- Smell and noise and disturbance particularly at night
- Elderly people living opposite feeling threatened
- Increase in traffic
- Previous refusals for takeaway uses
- Building unsustainable due to its size, should be knocked down

Further more positive comments expressed within the objection letters:

- Welcome the refurbishment and letting of the premises but not for hot food use
- No objections raised to the A2 proposed use.

Further consultation has taken place on the amended development description. As a result a further letter of objection has been received which is summarised as follows:

- The area is already well served by hot food uses which have litter and congregations of youths etc
- Local problems have been less since the shops closed
- No need for any shops at this location
- Knock them down and start again.

Any further representations received after the publication of this report will be reported to Committee in the Supplementary Papers.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of the Uses
- The impact on the amenities of surrounding occupiers
- Parking and highway safety
- Other Issues

Observations

Principle of the Uses

The application site is situated within a block of 8 shops in a local shopping parade. The parade of shops are currently all vacant, but has no other non A1 (general retail) uses and is therefore capable of meeting local needs in compliance with Policy S6 of the UDP.

Policy S10 of the UDP indicates that some shopping and commercial frontages outside Town, District and Local Centre are appropriate locations for restaurant or hot food uses, where there is existing activity, subject to key considerations.

The proposals would bring a vacant unit back into active use, which should be encouraged.

The principle of the proposed use is therefore considered appropriate in this location and the proposed use is unlikely to have any adverse impact on the vitality and viability of the parade or nearby local centre.

The impact on the amenities of surrounding occupiers.

Whilst the property is situated within a commercial frontage, there are residential flats above the shops and the site sits within a predominantly residential area.

Boundary Road forms a main route from Chester Road (to the east) into the estate and to Hundred Acre Road. Hundred Acre Road is a busy route through the estate with 3 bus routes that travel along it. A bus stop is situated immediately to the west of the parade of shops. Whilst the site is situated in a predominantly residential area the parade sits at quite a busy and active location.

The application proposes opening hours of 1100 to 2130 Mondays to Saturdays and 1100 to 2100 on Sundays. This would therefore provide early evening opening only and would therefore restrict comings and goings late at night. The unit is situated towards the middle of the block and the other retail units in the block have no restrictions on opening hours and therefore could feasibly be open during the evening. The proposed restriction of opening hours would allow for increased activity during the early evening to provide natural surveillance of the frontage, but prevent any adverse impact from the use during more sensitive late night hours.

Parking for the shops is situated on the frontage and use of this parking area is unlikely to have any additional adverse impact on the amenities of the residents above the shops or surrounding the site through comings and goings. The pedestrian access to the flats above the shops is situated to the rear.

PPG24 advises that noise-sensitive development shall not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00) It is considered that this development would not generate high levels of noise and appropriate opening hours are secured by condition.

The impact that the hot food takeaway may have on the neighbours by means of odours can be minimised with the installation of appropriately designed filters and other measures to comply with Defra Guidance, which would reduce the odours that are released. Extract ducting and fume extraction equipment would be provided to the rear elevation of the property, and a condition is attached to ensure the appropriate details are approved prior to installation, in accordance with recommendations from Environmental Health, to ensure no adverse impact on the occupiers of the first floor flats or surrounding occupiers from odour.

Whilst previous applications for hot food takeaways within the block (No 35 and 37 Boundary Court) have been refused, the last refusal and appeal dismissal was in 1997, some 12 years ago. However, Environmental health consider that a further refusal would be difficult to sustain. The last refusal (and appeal decision) identified noise, litter, vehicular and general disturbance and the potential for malodour and their adverse affect on the amenities of the residents in the vicinity, as the reason for refusal. Since this decision significant advancements in technology have been made for the management of malodour, to ensure that equipment is fit for purpose and that surrounding residential

occupiers would not be affected by malodour or the appearance of the equipment. Hot food uses and other retail uses opening in the evening are now more common place, perhaps due to customer demand. Safeguarding conditions to control opening hours and litter bins will overcome noise and litter issues.

Whilst anti social behaviour continues to be a problem at the site the premises are of poor appearance and the shop units vacant. West Midlands Police have raised no objections to the proposed uses and would encourage re use of the shops. The owner has offered one of the shop units to the Local Authority/Police as a base, which would further discourage illegal use and assist the other shop keepers in the block by have a Police/Local Authority presence on a regular basis. The Police considered that any further anti social behaviour that may be associated with a hot food takeaway use would be more manageable than the existing situation. If the premises are managed well from the outset the likelihood of disruption to neighbours is negligible.

The unit (as all the units in the block) is currently vacant, with solid roller shutters in place 24 hours, providing no natural surveillance of the frontage. Use of the premises, especially in the evening may deter anti social behaviour through natural surveillance and comings and goings of customers.

A balanced judgement needs to be made. Successful local shopping parades can accommodate well managed hot food uses and can bring a level of activity in the evening that can deter anti social behaviour. This parade of shops currently presents a wall of solid roller shuttered shops during the day and evening which can itself create a security risk and a threat to passers by through lack of surveillance. Introduction of an evening use would increase activity and surveillance of the area. In recognition of the increase in activity likely to arise from the proposed use the opening hours of the premises would be restricted to 2130 hours (Mon – Sat) and 2100 hours (Sun) to ensure no adverse impact at more sensitive late evening hours.

Parking and Highway Safety

The site is situated within a parade of shops with public parking bays to the frontage which extend the length of the parade, and a capacity for approx 18 cars. This level of car parking is considered adequate to serve the development and the adjoining premises and uses, when taking into consideration the potential for differing opening times and the location within a predominantly residential area where it is likely that a proportion of visitors will be non car users.

Other Issues and response to representations

Condition and Appearance of Boundary Court

The Council have received complaints about the condition and appearance of the building as far back as 1997.

Cabinet approved in principle (November 2007) the making of a CPO by the Council, with a view to entering into a Development Agreement with a Private Developer to secure the demolition of the building and redevelopment of the site or a refurbishment of the block, as the owners of the site had been unable to come to an agreement regarding the future of the building. However a formal Schedule of Works for the renovation and refurbishment of the block has recently been submitted by the owners and work has commenced on site, to

continue use of the block for a mix of retail and residential uses. The need for a CPO may therefore no longer be required.

Existing Hot Food Uses

Local residents have raised the issue of the number of existing hot food uses in the area, however no other hot food uses currently exist in the block of 8 shops. There is however an application for change of use to hot food takeaway at No 43 Boundary Court elsewhere on this agenda, which could result in 2 hot food uses in the block. The other uses referred to by the objectors are situated to the north in Blackwood Rd (approx 1400m from the application site), to the north east within Streetly local centre (approx 800m from the site) and to the south at the junction of Bakers Lane (approx 1400m from the site). The cumulative impact of hot food uses is therefore not considered an issue in this instance.

Litter

Objectors have commented on the potential for increase in litter. A condition is recommended to ensure the provision of a litter bin outside the premises and a mechanism for emptying.

Summary of Reasons for Granting Planning Permission

The proposed use would bring a vacant unit in a local shopping parade back into use and would comply with Policy S10 of the UDP in terms of the location, the proposed opening hours and the proposed fume extraction equipment. The unit is situated towards the middle of the block and other retail units in the block have no restrictions on opening hours and therefore could feasibly be open during the evening for retail purposes. Existing adequate off street parking is available on the frontage of the parade to meet the use and is unlikely to have any additional adverse impact on the amenities of residents above the shops or surrounding the site through comings and goings. Renovation of the building is already underway to provide an overall improvement to the appearance of the building.

Since previous refusals for hot food uses in the block there have been significant advancements in technology for the management of malodour and appropriate ventilation and extraction equipment would be provided to the rear elevation to ensure no adverse impact from odour on the amenities of the surrounding residential occupiers (including those in flats above the shops). The proposed use would have no adverse impact on the vitality or viability of the parade.

West Midlands Police have raised no objections and would encourage the re use of the shops. Whilst anti social behaviour has been a problem at the site previously this would be more manageable under the proposed use which would provide natural surveillance through comings and goings of legitimate customers, helping to reduce any perceived security risk.

The closest existing hot food use is situated approx 800m from the site within the Streetly local centre, there is therefore no issue of cumulative impact of the use.

The proposed development is therefore considered to accord with the aims and objectives of the development plan, in particular policies GP1, 3.7, GP2, ENV10b, ENV32, S6, S10, T7 and T13 of Walsall's Unitary Development Plan (2005).

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. The premises shall not be open for business outside the hours of 1100 to 2130 Mondays to Saturdays, 1100 – 2100 on Sundays.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

3. No development shall be carried out until details of the ventilation equipment and fume control measures including their siting, design and appearance (to comply with Defra Guidance) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

4. Prior to first use of the premises for the use hereby approved details of a litter bin outside the property (including mechanisms for emptying) shall be submitted to and approved in writing by the Local Planning Authority and once agreed the bin shall be installed and thereafter retained and operated in accordance with the approved details.

Reason: In order to safeguard the amenities of surrounding occupiers.

5. No development shall commence until details of a method to prevent greases entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirement.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

6. The premises shall be used for the purpose approved under this permission only and for no other purpose included in the Town and Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that Order, with or without modification.

Reason: In order to define the permission.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Significant Community Interest

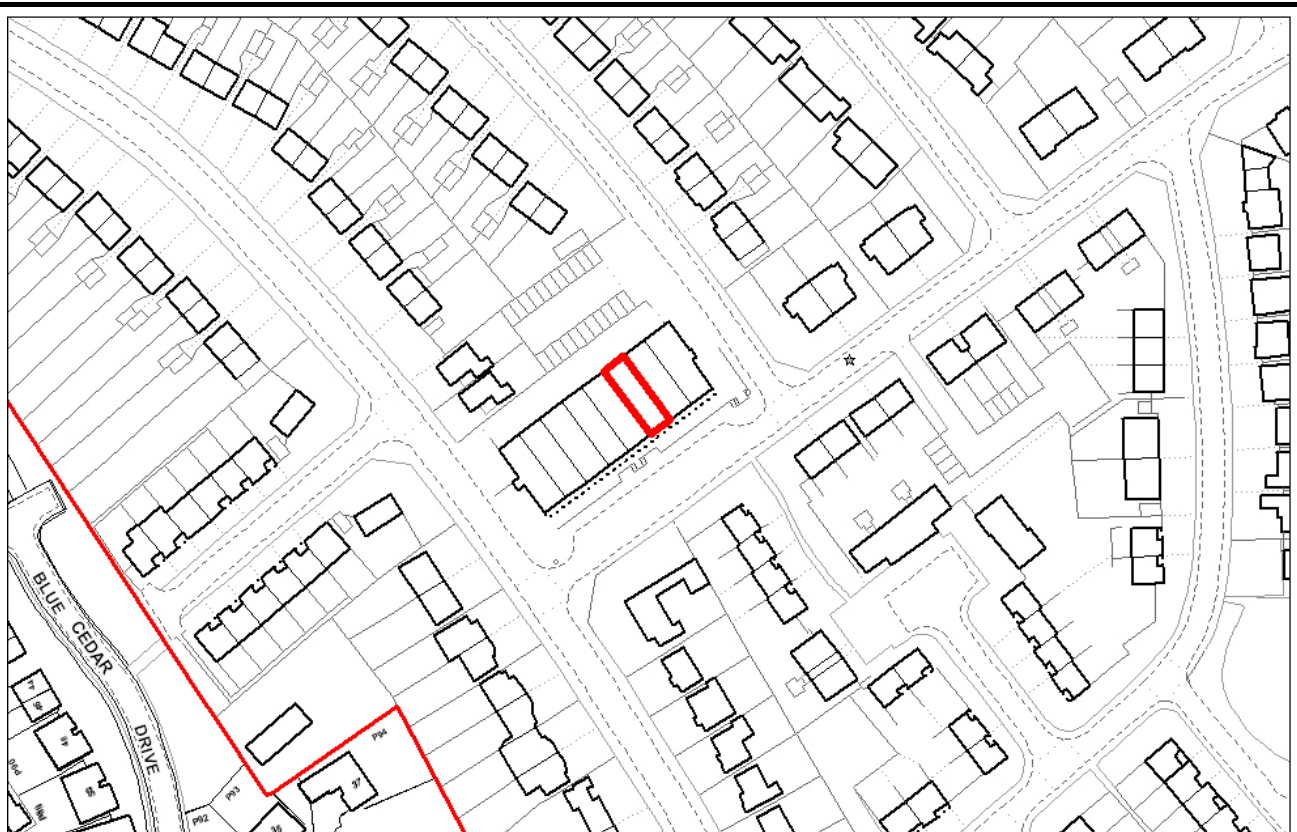
Application Number: 09/0481/FL
Application Type: Full application
Applicant: Mr Sam Ahmed
Proposal: Change of from Use Class A1
(Shops) and A3 (Restaurants and Cafes)

Case Officer: Barbara Toy
Telephone Number: 01922 652429
Agent: Jowitt Associates
Location: 39 Boundary Court,
Boundary Road, Streetly, Walsall B74
2JR

Ward: Streetly

Expired: 13/08/2009

Recommendation Summary: Grant Subject to conditions



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Application and Site Details

The site is situated on Boundary Road, set between the junctions with Hundred Acre Road and Laneside Avenue. It comprises a retail shop within a local parade of 8 shops, with two storey residential accommodation above (16 x 1 bed flats), with service area and garage court set to the rear.

Public parking bays are set to the frontage, at right angles to Boundary Road, extending the length of the parade, with a capacity for approximately 18 cars.

The site is situated within a residential housing estate comprising predominantly two storey detached and semi detached houses. Bungalows providing accommodation for the elderly are situated on the opposite side of Boundary Road.

All 8 shop units are vacant and have been for sometime, and only a small number of the flats above are occupied. Having been in a poor state of repair and of poor appearance for a number of years the building is currently in the process of being renovated and refurbished.

The owners have been marketing the shop units to try and secure future occupiers and bring the building back into use.

The development description has been amended since submission of the application, as future tenants become more clear, the application now seeks to change the use from A1 (shops) to an A3 (restaurants and cafes) use.

The application proposes opening hours from 0800 till 2300 hours Mondays to Saturdays and 0800 till 2100 hours on Sundays. Ventilation and extraction equipment would be sited to the rear of the property, the applicant's agent has confirmed that a three stage extraction system, incorporating extraction hood filters, carbon filtration and a tertiary treatment such as electrostatic precipitation or odour neutralisation with anti vibrational mounts will be installed to comply with Defra Guidance, together with extraction ducting to the rear elevation projecting approx 1m above the roof line of the building.

A similar application for change of use to A5 (hot food takeaway) at 43 Boundary Court appears elsewhere on this agenda.

Relevant Planning History

There is no planning history for the premises themselves.

Other hot food uses within the block

37 Boundary Court

BC18425P, change of use to hot food takeaway, refused 13-01-87

Reasons for Refusal:

3. Adversely affect the amenities of occupiers of dwellings in the vicinity by reason of increased noise, activity and general disturbance, particularly during anti social hours.

4. Would result in an intensification of traffic to the site and the surrounding neighbourhood resulting in increased parking in immediate proximity to a road junction, thus prejudicing the safety and free flow of traffic.

A subsequent appeal was dismissed on 12-08-87.

BC40727P, change of use from existing ground floor lock up shop to Indian takeaway, refused 31-03-94.

Reasons for Refusal:

3. Contrary to UDP Draft Deposit, in particular policy S11, in that it would be likely to result in increased levels of noise, litter, vehicular disturbance, activity especially in the evenings and malodour, all of which would be likely to be detrimental to the amenities currently enjoyed by the residents in Boundary Court, Sunnymead and the surrounding area.
4. It has not been demonstrated that the likely position of the fume extraction system can be installed without being detrimental to the visual amenity of the area without resulting in an adverse affect on the occupiers of the flats above the shops.

35 Boundary Court

BC48295P, Change of use of shop unit to fish and chip shop, refused 27-01-97.

Reason for Refusal:

2. Would be contrary to Policy S11 of the UDP in that it would adversely affect the amenity of residents within the vicinity of the site by reason of noise, litter, vehicular and general disturbance and the potential risk of malodour.

A subsequent appeal was dismissed on 25-09-97.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Walsall's Unitary Development Plan (2005)

GP1: Supports the sustainable location of development

3.7 seeks to protect people from unacceptable noise, pollution and other environmental problems.

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

II The creation or susceptibility to, pollution of any kind.

ENV10: Pollution

(a) II Cause unacceptable adverse effect in terms of smoke, fumes, gases, dust, steam, heat, light, vibration, smell, noise or other polluting emissions.

(b) Development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution caused by installations or activities that are a source of any form of pollution.

ENV32 states poorly designed development which fails to take into account the context or surroundings will not be permitted.

S1: Definition of Town Centre Uses

(a) II Class A2 (Financial, professional and other services) offices

S6: Meeting Local Needs

Outside identified centre, existing local shopping, service, leisure, community and other facilities – in the form of shopping parades, clusters, single shops etc will be encouraged to continue to meet day to day needs of the community.

S10: Hot Food Takeaways

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. Conditions can be imposed on the permission stating opening and closing times to close at 2300 hours Monday – Friday and 2330 hours on Saturdays.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13

T13 Parking Standards

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50m²; then 1 space per 22m² of gross floor space. At least 1 bike stand for every 5 car park spaces with an absolute minimum of 2 bike stands. Taxi facilities.

Designing Walsall (SPD) (Feb 2008)

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW9 – High Quality Public Realm - new development must seek to ensure it creates places with attractive environmental quality;

DW10 – Well Designed Sustainable Buildings - new development should make a positive contribution to creating a sustainable environment.

Regional Spatial Strategy for the West Midlands (PPS 11) (RSS) - Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes. There is no need for this application to be considered under the Conformity Protocol.

National Policy

PPG 24: Planning and Noise, the planning system should not place unjustifiable objects in the way of development which creates jobs and infrastructure, but must ensure that it does not cause an unacceptable degree of disturbance (para. 10). Noise-sensitive development should not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00) (para. 12). There will also be circumstances when it is acceptable - or even desirable in order to meet other planning objectives - to allow noise generating activities on land near

or adjoining a noise-sensitive development (para. 18). Fast food restaurants pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Need to consider the noise generated within the premises and the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated.

Consultations

Transportation – No objections subject to condition relating to cycle storage and bin storage. In terms of the UDP parking provision standards the proposed uses do not require any additional parking requirements over and above that required for the current use. The site is in a parade of shops with public parking bays to the frontage, extending the length of the parade, with a capacity for approx 18 cars. This is considered adequate to serve the development and adjoining premises, when taking into consideration the potential for differing opening times and the location within a predominantly residential area where it is likely that a proportion of visitors will be non car users.

Pollution Control Scientific Team – Environmental Health should be consulted
Contaminated Land Team – No specific contaminated land requirements

Environmental Health – no objection in principle. The proposals would be 1 of 2 hot food uses in the block, which is situated in a residential area. The applicant proposes suitable and sufficient extraction and filtration equipment to mitigate concerns over malodour.

Strategic Policy – No objections in principle to the uses proposed. The site is situated in an out-of-centre parade of shops, there is no objection in terms of policy S6. It is not considered that the use as a restaurant, café or hot food takeaway would have any additional impact on the vitality and viability of the centre than the existing uses.

West Midlands Police – No objections to the proposed uses. The Boundary Court shops have historically been a problem for anti social behaviour and continue to be a source of complaints from local residents. Support for reuse of the shops rather than them looking an eyesore and encouraging illegal use. The owner has offered one of the shop units to the Local Authority/Police as a base, which would further discourage illegal use and assist the other shop keepers in the block by have a police/Local Authority presence on a regular basis. It is considered that any further anti social behaviour that may be associated with a hot food use would be more manageable than the existing situation.

Public Participation Responses

A petition against the proposals containing 83 signatures has been submitted. The petition objects to the proposed uses within any of the shops in the block, no restaurants, cafes, fast food or taxi offices. Normal shopping hours of 0700 – 1800 should be observed.

Twenty one letters of objection received, objecting on the following grounds:

- Attract more youths to the area in the evening, already have enough problems
- More noise and litter
- Work continuing on the building despite no planning permission
- Area around the shops and the building an eyesore.

- Hot food use would exacerbate existing situation and lead to further anti social behaviour
- Existing provision for hot food uses in the local area, takeaways, pubs and restaurants, no further required
- Smell and noise and disturbance particularly at night
- Elderly people living opposite feeling threatened
- Increase in traffic
- Previous refusals for takeaway uses
- Building unsustainable due to its size, should be knocked down

Further more positive comments expressed within the objection letters:

- Welcome the refurbishment and letting of the premises but not for hot food use
- No objections raised to the A2 proposed use.

Further consultation has taken place on the amended development description. As a result one further letter of objection has been received which is summarised as follows:

- The area is already well served by hot food uses which have litter and congregations of youths etc
- Local problems have been less since the shops closed
- No need for any shops at this location
- Knock them down and start again.

Any further representations received after the publication of this report will be reported to Committee in the Supplementary Papers.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of the Uses
- The impact on the amenities of surrounding occupiers
- Parking and highway safety
- Other Issues

Observations

Principle of the Uses

The application site is situated within a block of 8 shops in a local shopping parade. The parade of shops are currently all vacant, but has no other non A1 (general retail) uses and is therefore capable of meeting local needs in compliance with Policy S6 of the UDP.

Policy S10 of the UDP indicates that some shopping and commercial frontages outside Town, District and Local Centre are appropriate locations for restaurant or hot food uses, where there is existing activity, subject to key considerations.

The proposals would bring a vacant unit back into active use, which should be encouraged.

The principle of the proposed use is therefore considered appropriate in this location and the proposed use is unlikely to have any adverse impact on the vitality and viability of the parade or nearby local centre.

The impact on the amenities of surrounding occupiers.

Whilst the property is situated within a commercial frontage, there are residential flats above the shops and the site sits within a predominantly residential area.

Boundary Road forms a main route from Chester Road (to the east) into the estate and to Hundred Acre Road. Hundred Acre Road is a busy route through the estate with 3 bus routes that travel along it. A bus stop is situated immediately to the west of the parade of shops. Whilst the site is situated in a predominantly residential area the parade sits at quite a busy and active location.

The application proposes opening hours of 0800 to 2300 Mondays to Saturdays and 0800 to 2100 on Sundays. Whilst this involves evening opening a restaurant by the nature of its use does not normally attract excessive comings and goings. The unit is situated towards the middle of the block and the other retail units in the block have no restrictions on opening hours and therefore could feasibly be open during the evening for retail purposes.

Parking for the shops is situated on the frontage and use of this parking area is unlikely to have any additional adverse impact on the amenities of the residents above the shops or surrounding the site through comings and goings. The pedestrian access to the flats above the shops is situated to the rear.

PPG24 advises that noise-sensitive development shall not normally be permitted where high levels of noise will continue throughout the night, especially during the hours when people are normally sleeping (23.00 to 07.00). It is considered that this development would not generate high levels of noise and appropriate opening hours are secured by condition.

The impact that the restaurant may have on the neighbours by means of odours can be minimised with the installation of appropriately designed filters and other measures to comply with Defra Guidance, which would reduce the odours that are released. Extract ducting and fume extraction equipment would be provided to the rear elevation of the property, and a condition is attached to ensure the appropriate details are approved prior to installation, in accordance with recommendations from Environmental Health, to ensure no adverse impact on the occupiers of the first floor flats or surrounding occupiers from odour.

Three previous applications for hot food takeaways at No 35 and 37 Boundary Court were refused, the last refusal and appeal dismissal was in 1997, some 12 years ago. However, Environmental Health consider that a refusal for a restaurant use would be difficult to sustain. Restaurant uses by their nature (customers visiting the premises for a longer period of time than a hot food takeaway), creates less comings and goings. The previous refusals (and appeal decisions) related to hot food takeaways, identified noise, litter, vehicular and general disturbance and the potential for malodour and their adverse affect on the amenities of the residents in the vicinity, as the reasons for refusal. Since this decision significant advancements in technology have been made for the management of malodour, to ensure that equipment is fit for purpose and that surrounding residential

occupiers would not be affected by malodour or the appearance of the equipment. Hot food uses and other retail uses opening in the evening are now more common place, perhaps due to customer demand. Safeguarding conditions to secure appropriate opening hours are attached to overcome any late night noise issues.

Whilst anti social behaviour continues to be a problem at the site the premises are of poor appearance and the shop units vacant. West Midlands Police have raised no objections to the proposed uses and would encourage re use of the shops. The owner has offered one of the shop units to the Local Authority/Police as a base, which would further discourage illegal use and assist the other shop keepers in the block by have a Police/Local Authority presence on a regular basis. The Police considered that any further anti social behaviour that may be associated with a restaurant use would be more manageable than the existing situation. If the premises are managed well from the outset the likelihood of disruption to neighbours is negligible.

The unit (as all the units in the block) is currently vacant, with solid roller shutters in place 24 hours, providing no natural surveillance of the frontage. Use of the premises, especially in the evening may deter anti social behaviour through natural surveillance and comings and goings of customers.

A balanced judgement needs to be made. Successful local shopping parades can accommodate well managed hot food uses and can bring a level of activity in the evening that can deter anti social behaviour. This parade of shops currently presents a wall of solid roller shuttered shops during the day and evening which can itself create a security risk and a threat to passers by through lack of surveillance. Introduction of an evening use would increase activity and surveillance of the area. A restaurant use (with no takeaway facility) would create less comings and goings than a hot food takeaway, but would provide surveillance from customers within the premises.

Parking and Highway Safety

The site is situated within a parade of shops with public parking bays to the frontage which extend the length of the parade, and a capacity for approx 18 cars. This level of car parking is considered adequate to serve the development and the adjoining premises and uses, when taking into consideration the potential for differing opening times and the location within a predominantly residential area where it is likely that a proportion of visitors will be non car users.

Other Issues and response to representations

Condition and Appearance of Boundary Court

The Council have received complaints about the condition and appearance of the building as far back as 1997.

Cabinet approved in principle (November 2007) the making of a CPO by the Council, with a view to entering into a Development Agreement with a Private Developer to secure the demolition of the building and redevelopment of the site or a refurbishment of the block, as the owners of the site had been unable to come to an agreement regarding the future of the building. However a formal Schedule of Works for the renovation and refurbishment of the block has recently been submitted by the owners and work has commenced on site, to continue use of the block for a mix of retail and residential uses. The need for a CPO may therefore no longer be required.

Existing Hot Food Uses

Local residents have raised the issue of the number of existing hot food uses in the area, however no other hot food uses currently exist in the block of 8 shops. There is however an application for change of use to hot food takeaway at No 43 Boundary Court elsewhere on this agenda, which could result in 2 hot food uses in the block. The other uses referred to by the objectors are situated to the north in Blackwood Rd (approx 1400m from the application site), to the north east within Streetly local centre (approx 800m from the site) and to the south at the junction of Bakers Lane (approx 1400m from the site). The cumulative impact of hot food uses is therefore not considered an issue in this instance.

Litter

Objectors have commented on the potential for increase in litter. Litter is not normally considered an issue related to restaurant uses that have no takeaway facility.

Summary of Reasons for Granting Planning Permission

The proposed use would bring a vacant unit in a local shopping parade back into use and would comply with Policy S10 of the UDP in terms of the location, the proposed opening hours and the proposed fume extraction equipment. The unit is situated towards the middle of the block and other retail units in the block have no restrictions on opening hours and therefore could feasibly be open during the evening for retail purposes. Existing adequate off street parking is available on the frontage of the parade to meet the use and is unlikely to have any additional adverse impact on the amenities of residents above the shops or surrounding the site through comings and goings. Renovation of the building is already underway to provide an overall improvement to the appearance of the building.

Since previous refusals for hot food uses in the block there have been significant advancements in technology for the management of malodour and appropriate ventilation and extraction equipment would be provided to the rear elevation to ensure no adverse impact from odour on the amenities of the surrounding residential occupiers (including those in flats above the shops). The proposed use would have no adverse impact on the vitality or viability of the parade. A restaurant use by its nature would not cause the same activity as a hot food takeaway.

West Midlands Police have raised no objections and would encourage the re use of the shops. Whilst anti social behaviour has been a problem at the site previously this would be more manageable under the proposed use which would provide natural surveillance through comings and goings of legitimate customers, helping to reduce any perceived security risk.

The closest existing hot food use is situated approx 800m from the site within the Streetly local centre, there is therefore no issue of cumulative impact of the use.

The proposed development is therefore considered to accord with the aims and objectives of the development plan, in particular policies GP1, 3.7, GP2, ENV10b, ENV32, S6, S10, T7 and T13 of Walsall's Unitary Development Plan (2005).

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2. The premises shall not be open for business outside the hours of 0800 to 2300 Mondays to Saturdays, 0800 – 2100 on Sundays.

Reason: To safeguard the amenities of the occupiers of adjoining premises.

3. No development shall be carried out until details of the ventilation equipment and fume control measures including their siting, design and appearance (to comply with Defra Guidance) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before this development is brought into use and thereafter retained in working order.

Reason: To safeguard the amenities of the occupiers of nearby adjoining residential premises.

4. No development shall commence until details of a method to prevent greases entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with the manufacturer's or installer's requirement.

Reason: To prevent grease entering into the drainage system in the interests of the free flow, capacity and the prevention of pollution of the system.

5. The premises shall be used for the purpose approved under this permission only and for no other purpose included in the Town and Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that Order, with or without modification.

Reason: In order to define the permission.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Creaney

Application Number: 09/0945/FL
Application Type: Full application
Applicant: Domino Pizza Group Ltd

Case Officer: Val Osborn
Telephone Number: 01922 652436
Agent: Richard Unwin Chartered
Surveyor

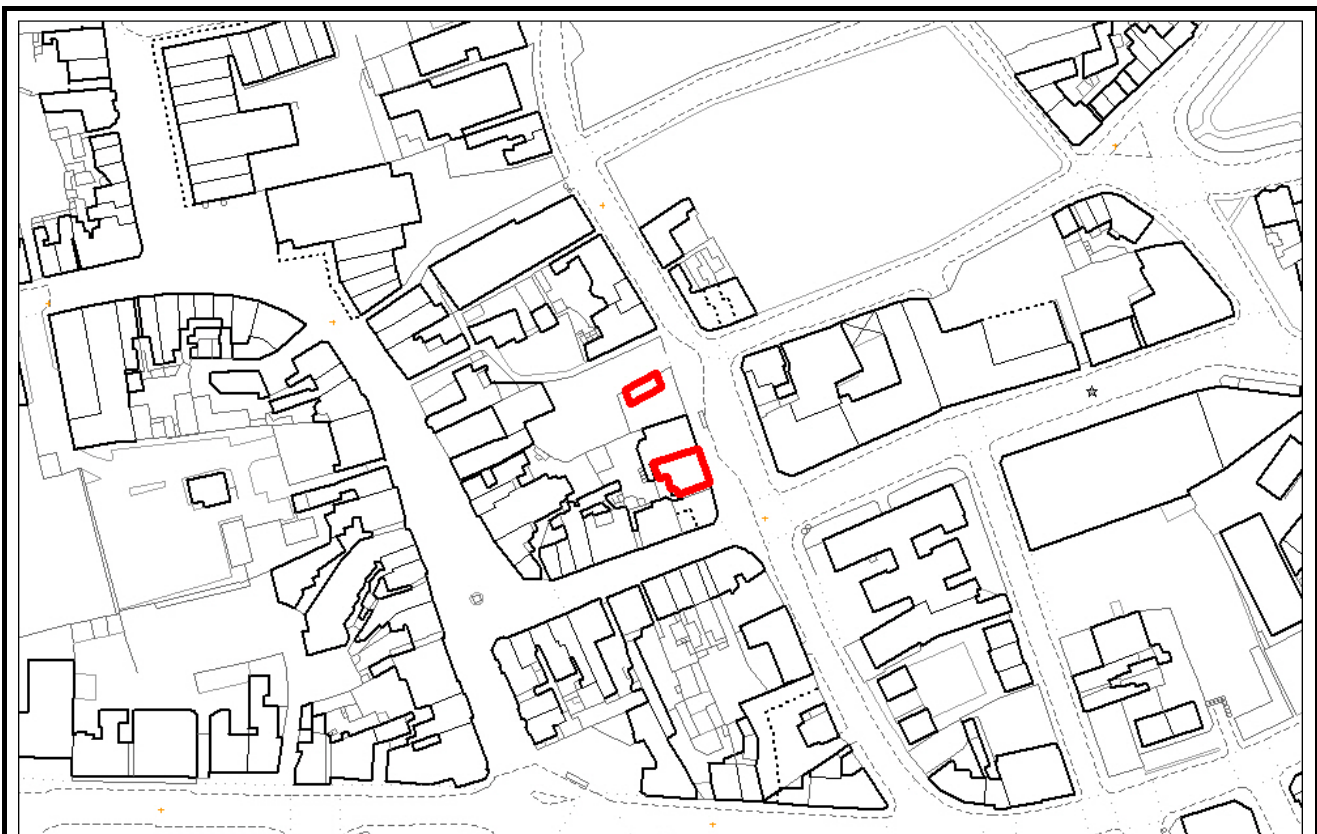
Proposal: Change of Use of Part of Former
Public House to A5 (hot food takeaway), New
Shop Front and Erection of Extract Duct

Location: THE LION HOTEL, UPPER
LICHFIELD STREET, WILLENHALL

Ward: Willenhall South

Expired: 13/10/2009

Recommendation Summary: Grant Permission, unless additional information is received
which raises material planning issues.



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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

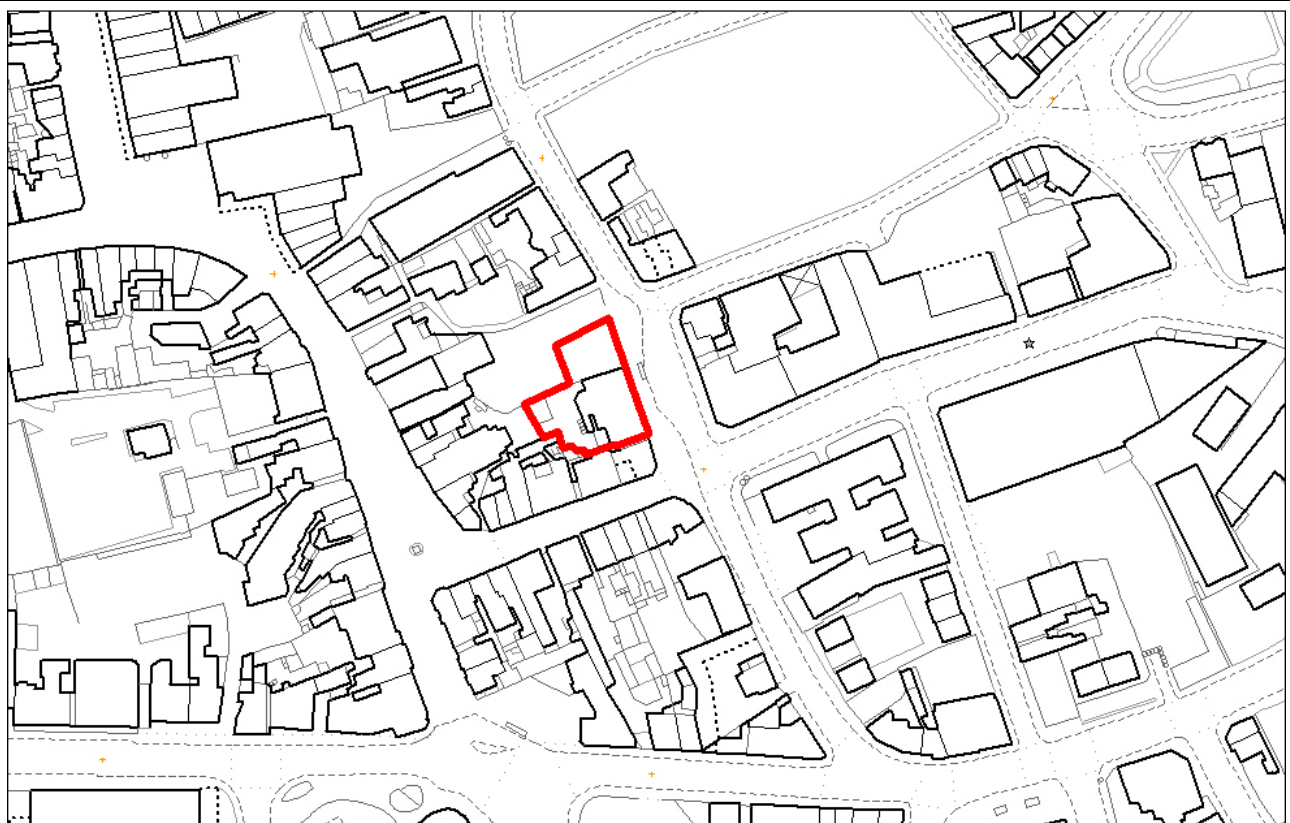
REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Creaney

Application Number: 09/0980/FL
Application Type: Full application
Applicant: D & G Property
Proposal: Splitting of existing unit into one smaller unit with alterations to shop front

Case Officer: Val Osborn
Telephone Number: 01922 652436
Agent: Foresite Architectural Ltd
Location: THE LION HOTEL, UPPER LICHFIELD STREET, WILLENHALL, WV13 1PB
Expired: 13/10/2009

Ward: Willenhall South

Recommendation Summary: Grant Permission, unless additional information is received which raises material planning issues.



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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Called in by Councillor Creaney

Application Number: 09/1075/AD

Application Type: Advertisements

Applicant: Domino's Pizza Group Plc

Proposal: Fascia Sign, Hanging Sign and
Internal Window Sign.

Case Officer: Val Osborn

Telephone Number: 01922 652436

Agent: Hattrell DS One Architects LLP

Location: FORMER "LION HOTEL", 9
UPPER LICHFIELD

STREET, WILLENHALL, WV13 1PB

Expired: 02/10/2009

Ward: Willenhall South

Recommendation Summary: Grant Advert 5 years



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Application and Site Details

This is a joint report for applications

- 09/0945/FL which proposes the change of use of part of the ground floor of the former Lion PH to a hot food take-away,
- 09/0980/FL, which proposes the conversion of part of the ground floor to a shop and
- 09/1075/AD which proposes a fascia and hanging sign and internal window sign.

The applications relate to the former Lion Public House which is a substantial and Locally Listed building on Upper Lichfield Street, Willenhall and propose the change of use and sub-division of the ground floor into two units, one as a hot food take-away and another as a retail unit.

The Lion PH has an asymmetrical elevation to its three storey frontage with timber panelled gables over third and second floor windows on the northern half of the building and a plain elevation to the three storey southern part of the building. Double fronted windows on the ground floor have doorway entrances either side.

The proposed hot food take-away relates to the southern half of the building and the application proposes repairs so as to retain the existing timber windows, its half rail, stall risers and doorway features. One of the doorways would be a customer entrance with the side door entrance as a staff doorway.

The application for signage relates to this frontage and proposes an etched opaque window with Domino logo for the staff entrance door and frontage fascia sign and hanging sign illuminated by trough lights.

A single storey rendered extension measuring 3.1m by 2.3m has been erected at the rear in the corner between original buildings and 1920's -50's extensions to the premises. It is proposed that this extension would accommodate ducting and plant for the air conditioning and fume extraction/ ventilation from the pizza ovens within the premises, with a 0.5m diameter ducting flue chimney from the roof of the extension extending externally to terminate 1m above the eaves of the three storey building, overall 5.6m in height. An air compressor mounted externally on the rear elevation of the extension is also proposed.

The application is accompanied by a noise assessment in respect of the ventilation and extraction equipment.

Application 09/0980/FL relates to the northern half of the building and proposes the conversion of the ground floor to a shop unit with alterations to one of the existing windows to provide a street entrance to the proposed shop. The centre dividing panel of the existing window would be retained and the application proposes the new door to be completed in joinery to match existing.

The proposed alterations would retain the central core of the building as an entrance and staircase to upper floors. The application does not include the first and second floors of the public house premises. These are being considered for use as flats, but this is a matter left for the future, at this stage.

The proposed demolition of outbuildings within the rear yard for the formation of car parking (9 spaces) identifies some of the spaces for occupiers of flats. The upper floors are part of the public house and were in residential use. Four car parking spaces are to be allocated to the proposed pizza hot food take-away, as 1 for staff, 2 for customers and 1 for a delivery vehicle awaiting an order. The service yard layout provides space for access to the proposed ground floor rear accesses for the shop and hot food take-away.

The Lion PH is at the back of footpath on Upper Lichfield Street with a bus lay-by and shelter on the street frontage. It is a 'Local List' building of distinct character, within Willenhall Conservation Area.

The applicant's supporting statement for the pizza hot food take-away comments that only 20% of pizzas are bought by customers visiting the unit. There would be approximately eight members of staff working at any one time at the hot food take-away which would be open between 0900 and 2300 weekdays and Saturday and 1000- 2300 Sundays. The plant specification for the pizza ovens and associated ducting submitted with the application, explains that , in general, baking produces very little grease and the extract system is predominantly removing heat and gas combustion fumes.

The applicant has submitted a Statement of Community Involvement, explaining how the proposals were presented to Willenhall project Reference Group and aspects of the scheme explained. The applicant gained a useful insight to the problems facing the town centre at Willenhall in identifying to the group the benefits that would ensue in terms of investment on this vacant building which faces the prospect of serious deterioration if no action is taken in the near future.

Relevant Planning History

None relevant.

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)

Walsall Unitary Development Plan March 2005

GP2 – development should be sustainable and contribute to environmental improvement;

3.6 Development should help to improve the environment.

3.16 The Council will consider development in relation to the character and quality of the existing local environment, requiring a high quality of landscape design.

ENV10 development which may cause pollution will only be permitted where it would a)not cause unacceptable effect in terms of noise or smell, have an unacceptable adverse effect on nearby uses, or b) amenity of occupants would be unacceptable affected.

ENV28 adverse alterations to Local List buildings will be resisted.

ENV29 statutory duty to preserve or enhance the character and appearance of a Conservation Area

ENV32 states that poorly designed proposals which fail to take account of the context or surroundings will not be permitted.

LC8; Local Community facilities: the loss of public houses will only be permitted if it can be demonstrated that there are other existing facilities in an equally convenient location or there is no longer any need for the facility.

Regional Policy

RSS11 - PA10 (Tourism and Leisure), PA11 (Town Centres), UR3 (Enhancing the Role of Town Centres) - seek to encourage development in town centres. Policy T7 - car parking and management.

National Policy

PPS1 seeks to locate development in sustainable locations, PPS6 seeks strong, vibrant and sustainable town centres, and PPG13 seeks to encourage alternative modes of transport to the car.

Consultations

Transportation ; No objections.

Environmental Health – No objections. Provision of carbon filtration to control odours is indicated in the application, which is satisfactory. A noise assessment has been submitted.

Pollution Control, Scientific Team; No objections, subject to a condition regarding the installation of sound proofing equipment referred to in the applicant's noise assessment.

Pollution Control, Land Contamination Team – No comments. No specific contaminated land requirements.

Conservation Officer - There are no fundamental objections to this application as it will reuse and redecorate many of the original and traditional features to the front of the building. The flue and ducting is generally fine as it does not breach the roofline and the rear is well screened and therefore there are no setting issues from a wider conservation area aspect.

Fire Officer – satisfactory access

West Midlands Police – No objections.

There are concerns regarding the vehicle access to the premises as the design and access statement infers the mainstay of the business will be the home delivery service. Upper Lichfield Street is a narrow road and any vehicles parked outside the premises will cause disruption to traffic flow and a possible danger to pedestrians.

Take away premises do on occasion attract drunken or unruly customers so the public area of the premises should have a CCTV system to deter criminal or anti social behaviour and to provide reassurance to staff and customers. The system should be recorded onto a hard drive and be retained for at least 28 days. The recorded image should show the time and date and all members of staff should be conversant with operating the system.

The serving counter should be high and wide enough to afford protection to staff from any unruly or aggressive customers. For both security and safety, laminated glass in all glazed areas is recommended.

Public Participation Responses

Two letters have been received objecting on the following grounds;

- the locality has sufficient provision of hot food take-aways;
- there is an existing street litter problem;
- existing premises are unable to control anti-social behaviour;
- the former public house was a lovely pub;
- it would undermine the character of the area and the regeneration the Council is trying to achieve;
- there is a busy bus stop outside the premises;
- there are many traffic delays in this locality of Willenhall.

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Character and amenity
- Pollution and odour issues
- Issues raised by respondents - anti-social behaviour
 - traffic implications.

Observations

Character and amenity

The proposals will retain and repair the existing timber window stall risers, ornamental details and doors, thereby enhancing the character and appearance of the building and making a direct contribution to the character of the Conservation Area.

The rear extension already erected is in an extreme corner and accommodates the lower ventilation equipment of the hot food take-away. It would remain at the back of the building and have no impact on the Conservation Area.

Impact on amenity- extraction equipment

A single storey flat roof extension has already been erected at the site. In the proposal this structure would accommodate the ground floor parts of the ventilation equipment and therefore partially hide the duct from view.

The proposed ventilation chimney flue would be located in the south-western corner of the rear elevations, to the rear of existing two storey 1950's extension and north of an existing original two storey ridged roof structure, so as to be hidden as much as possible. The flue would extend above the eaves line of adjacent buildings although remain below the height of surrounding roof ridgelines.

No. 8 Cross Street is converted into four flats, three rear windows of which have partial oversight of the proposed flue structure. Two windows face west and therefore views of the proposed flue would not be direct. Additionally an existing two storey ridged roof rear extension would obstruct views of the flue from the first floor window. At second floor the view of the flue would be at an acute angle, where the flue would be nearly in line with the rear window and therefore would not be a direct and opposite relationship.

It is therefore considered that the siting for the proposed flue is acceptable.

The application for the hot food take-away proposes that the flue be painted matt black. It is recommended that details of the external treatment for the flue be reserved by condition, as recommended, since details of the application of the paint or surface treatment are not submitted.

Pollution and odour issues

Environmental Health officers are satisfied with the standard of equipment proposed for the hot food take-away and the provisions for its maintenance.

Pollution Control consider the scheme to be satisfactory, subject to a condition concerning installation of proposed sound-proofing equipment.

Issues of use raised by respondents - anti-social behaviour

The Lion PH is classified as an A4 - pubs and bars use, and the Town and Country Planning Use Classes order as amended provides for the change of use of the premises to a shop, financial service provider or restaurant, snack bar or café, without the need for planning permission. However, the premises are to be sub-divided and this generates the need for planning permission. The use as a hot food take-away is likely to cause less disturbance to the local area than a public house.

The applicants have agreed to address the security concerns by providing secure gated access to the car park.

The site is within Willenhall District centre, where uses such as A5-hot food take-aways are considered appropriate, subject to amenity considerations for nearby residential uses. In these applications, it is considered that the proposed ventilation equipment is satisfactory and the amenity of nearby residents safeguarded.

Traffic implications

As a district centre location, customers to the premises would be able to use the on-street parking in the vicinity, such as on Cheapside and John Street. The application for the hot food take-away makes clear in the submitted details that 20% of customers call in person to the premises. It is therefore unlikely that securing the car park would create a parking and access problem on the frontage, where there are yellow lines to preclude parking.

The demolition of the existing garage with the clearance and tidying of the rear courtyard area to form the car park would be a significant improvement to the locality.

The applications propose the refurbishment of a large and significant building within Willenhall in a manner that is sympathetic to its character, retaining original features and making good use of openings for proposed and future uses. The Conservation officer has

no objections to the proposals and the proposed advertising is considered acceptable, subject to conditions as recommended.

The proposed change of uses, erection of flue chimney, formation of the car park and alterations are therefore considered acceptable.

Summary of Reasons for Granting Planning Permission

The proposal would provide fume and odour control equipment which meets the requirements of DEFRA guidance and which will not be obtrusive to view. The proposed equipment is of a high specification and be able to deal with a high percentage of odours, so as to fail to cause nuisance to nearby residents. The proposed development is therefore considered not to significantly harm the visual amenity of nearby residents. The proposed development provides for the refurbishment of a Local List building in a satisfactory manner that will have regard to its character and appearance and also enhance the character and appearance of Willenhall Conservation Area.

The proposed development is therefore considered to comply with the relevant policies of the development plan, in particular policies GP2, 3.6, ENV10, ENV29 and ENV32 of Walsall's Unitary Development Plan, and, on balance, having taken into account all material planning considerations, the proposal is acceptable.

09/0945/FL - Recommendation: Grant Permission, unless additional information is received which raises material planning issues.

1. This development must be begun not later than 3 years after the date of this decision.

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. No development shall commence until details of a method to prevent grease entering the drainage system have been submitted to and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved equipment shall thereafter be retained and maintained in accordance with manufacturer's or installers requirements.

Reason; To ensure the proposal does not create any pollution of water course and drainage systems.

3. This development shall not be carried out other than in conformity with the submitted plans, numbered the details as defined in the accompanying Design and Access Statement, (accompanying the application and received 18th August 2009), Domino's Pizza group Ltd Standard Specification for ventilation and air conditioning systems, received 15 July 2009, and Plant Noise Assessment report 09/3230/R1, by Cole Jarman, received 21st September 2009.

Detailed plans of the proposed structure and external finishes, precise location and method of mounting and fixing, and details of the overall dimensions of the equipment including height of the proposal as mounted on the roof, shall be submitted to and approved in writing before any installation work commences. The proposed extraction equipment shall be maintained in accordance with manufacturer's instructions

Reason; To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

4. The ventilation equipment hereby authorised shall be finished in a matt black external surface material, the specification of which shall be submitted to and approved in writing by the Local Planning Authority before installation work commences and thereafter maintained as such.

Reason; To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the submitted plans and elevations.

5. No development shall commence until details of the design height and opening of the proposed gates, including fixing position and related security system for access to the car park and the marking out and surfacing for the car park areas with designated spaces, has been submitted and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved design and security shall thereafter be retained with spaces available for use and maintained in accordance with manufacturer's or installers requirements.

Reason; To ensure that the development undertaken under this permission shall not be otherwise than in accordance with approved details.

6. Notwithstanding the submitted plans, details of the external colour of the proposed painting of front elevations including windows, surrounds and doorways shall be submitted to and approved in writing by the local planning authority before development commences. The premises shall thereafter be retained and maintained as such.

Reason; in the interests of preserving and enhancing the character and appearance of the Conservation Area.

7. Before development commences details of the location and design for bin stores and a waste management strategy to serve the premises shall be submitted to and approved in writing by the Local Planning Authority. Such provision shall be used and retained at the site.

Reason; In the interests of amenity

8. Notwithstanding any description/details in the application documents the blocked up doorways/fenestration shall be recessed (by at least 100mm) and constructed in a brick bond which matches that of the existing, otherwise they shall be retained.

Reason; in the interests of preserving and enhancing the character and appearance of the Conservation Area.

9. Before work begins, steps shall be approved in writing with the Local Planning Authority and thereafter taken to protect the following external features from theft or other damage for the duration of the alteration work hereby permitted:

- a) shop front joinery (that consists of the stall risers, pilasters and brackets);

- b) panelled doors;
- c) front lantern that is fixed to the existing fascia.

Reason; in the interests of preserving and enhancing the character and appearance of the Conservation Area.

10. No development shall take place until suitable noise mitigation measures to protect internal areas, as detailed in report reference 09/3230/R1 by Cole Jarman, have been agreed in writing with the local planning authority. The development shall not be occupied until such measures have been fully implemented and maintained thereafter.

Reason; In the interests of amenity.

09/0980/FL - Recommendation: Grant Permission, unless additional information is received which raises material planning issues.

1. This development must be begun not later than 3 years after the date of this decision.

Reason; Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development shall not be carried out other than in conformity with the submitted plans, numbered 09_FSLTD_053 Dwg no 06 Rev B the details as defined in the accompanying Design and Access Statement, (accompanying the application and received 16th July 2009).

3. No development shall commence until details of the design, fixing position, opening and related security system for the proposed gates to the car park and the marking out of and surfacing for the car park areas with designated spaces, has been submitted and approved in writing by the Local Planning Authority. The premises shall not be open for business until this approval has been given and the approved details have been fully implemented. The approved design and security shall thereafter be retained with spaces available for use and maintained in accordance with manufacturer's or installers requirements.

Reason; To ensure that the development undertaken under this permission shall not be otherwise than in accordance with approved details.

4. Notwithstanding the submitted plans, details of the external colour that the windows and doorways are to be painted shall be submitted to and approved in writing by the local planning authority before development commences. The premises shall thereafter be retained and maintained as such.

Reason; in the interests of preserving and enhancing the character and appearance of the Conservation Area.

5. Before development commences details of the location and design for bin stores and a waste management strategy to serve the premises shall be submitted to and approved in writing by the Local Planning Authority. Such provision shall be used and retained at the site.

Reason: In the interests of amenity

6. Notwithstanding the submitted plans, details of the design and materials for new door to the shop, detailing the ornamentation for the new timber door comparable with those existing at the premises, shall be submitted to and approved in writing by the local planning authority before development commences. The door shall thereafter be retained and maintained as such.

Reason: in the interests of preserving and enhancing the character and appearance of the Conservation Area.

09/1075/AD - Recommendation: Grant Advert 5 years

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission

Reason: It is a requirement of the Regulations that the site owners permission be obtained before any advertisement is displayed.

2. No advertisement shall be sited or displayed so as to-

- Endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- Obscure, or hinder the ready interpretation of, any traffic sign, railway signal, or aid to navigation by water or air; or
- Hinder the operation of any device used for the purpose of securing or surveillance or for measuring the speed of any vehicle.

Reason: In the interest of public safety

3. Any advertisement displayed, and any site used for the displaying of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To ensure the satisfactory appearance of the development

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: In the interest of public safety and amenity.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair on visual amenity.

Reason: In the interest of public safety and amenity

6. The proposed external illumination of floodlight for the sign shall be limited to a maximum luminance of 100 cd/m², unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of amenity, as the locality is within Willenhall Conservation Area and the application site is a building included on the Local List.

7. The fascia panels advertising shall be limited in extent to that of the existing externally illuminated fascia sign and its related trough downlighter, as shown on drawing C4505-E04, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of amenity, as the locality is within Willenhall Conservation Area and the application site is a building included on the Local List.

8. The trough light hood shall be finished in a colour and finish to that stated within the submitted plans.

Reason; In order to define the permission and in the interests of amenity.

9. Where installation works may result in damage to the original fabric of the building, details of the projected works and the proposed repairs shall be submitted to and approved in writing by the Local Planning Authority before such works commence.

Reason: In the interest of amenity, as the locality is within Willenhall Conservation Area and the application site is a building included on the Local List.

Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision

The proposed development is considered to have little impact on amenity or the character of Willenhall Conservation Area or the Local List Building complies with the relevant policies of the Development Plan, in particular policies GP2 and ENV 29, ENV35 and, on balance, having taken into account all material planning considerations, the proposal is acceptable.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement

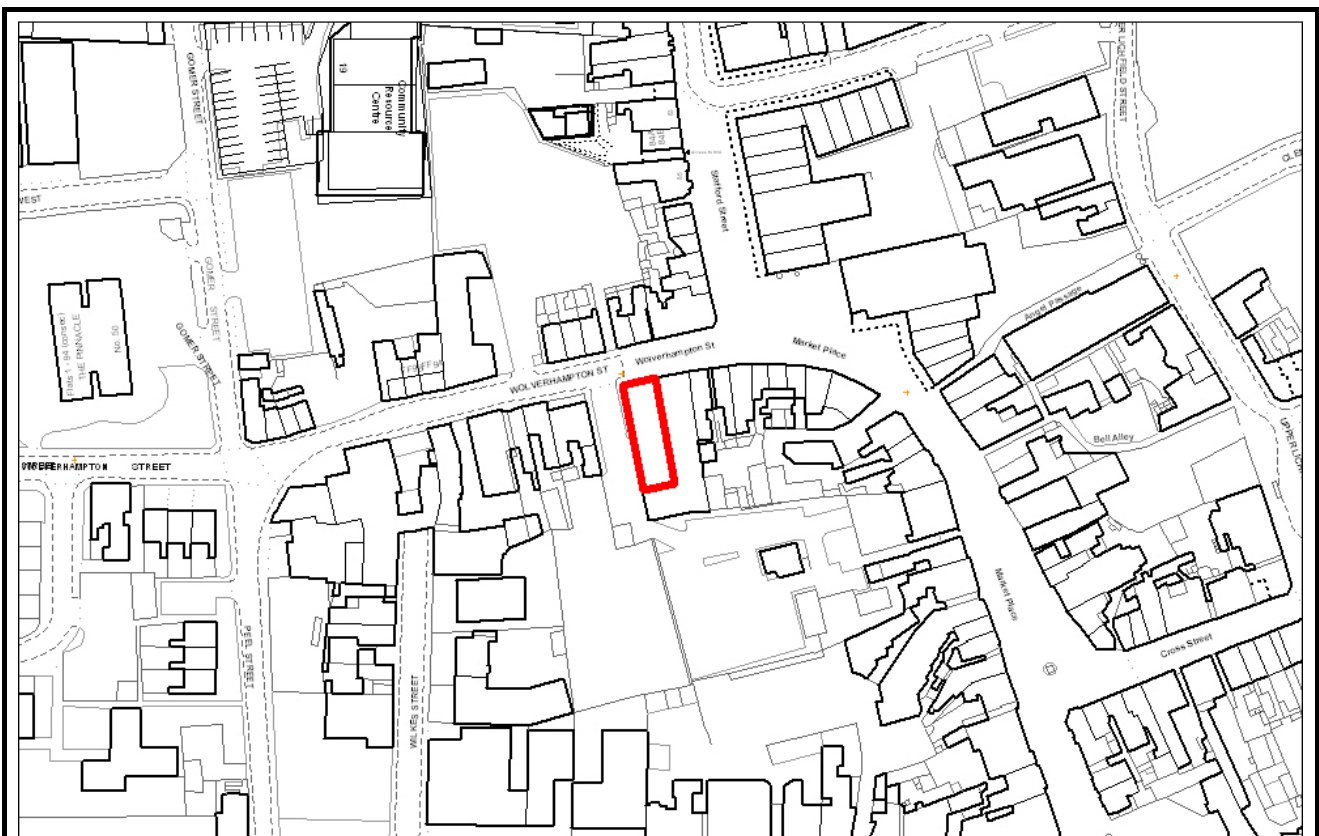
Application Number: 07/1438/FL/W3
Application Type: Full application
Applicant: 8PM Chemist

Proposal: Three storey extensions and
alteration to shopfront at no. 61

Ward: Willenhall South

Recommendation Summary: Grant Subject to conditions

Case Officer: Jan Scrivens
Telephone Number: 01922 652436
Agent: Rockingham Design
Partnership
Location: 59, 60 and 61
WOLVERHAMPTON
STREET, WILLENHALL, WV13 2NF
Expired: 11/01/2008



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To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement

Application Number: 08/1932/CC

Application Type: Conservation Area

Consent

Applicant: 8PM Chemist

Proposal: Demolition of no.60 Wolverhampton Street to facilitate proposal under planning application no. 07/1438/FL/W3

Ward: Willenhall South

Recommendation Summary: Grant Cons. Area Cons.

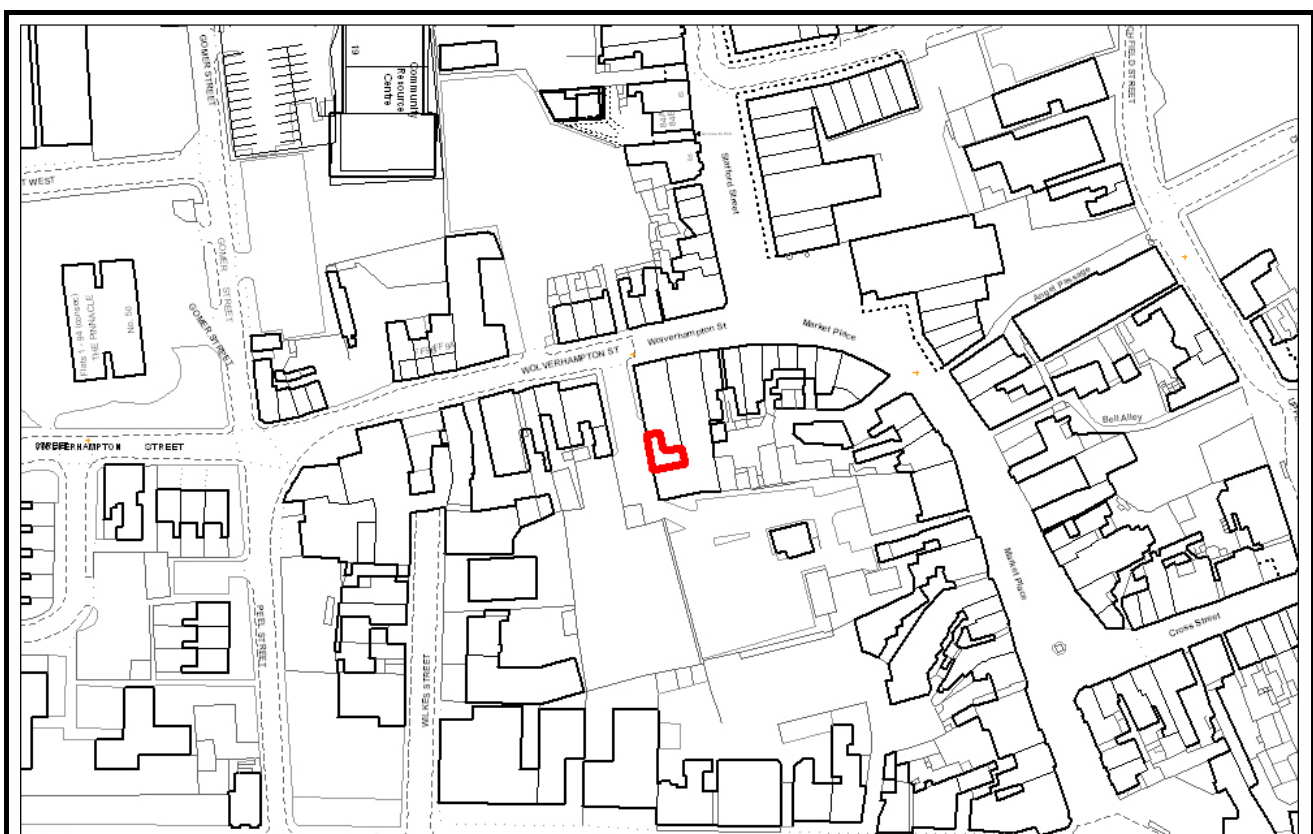
Case Officer: Jan Scrivens

Telephone Number: 01922 652436

Agent: Mr Robert Glenn

Location: 60 WOLVERHAMPTON STREET, WILLENHALL, WV13 2NF

Expired: 13/02/2009



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Application and site details

These applications relate to three adjoining properties. No.61 Wolverhampton Street, is a chemists shop with ancillary offices above and a warehouse at the rear which is used for the storage and dispatch of pharmacy/chemist products to nursing homes. No. 59, on the junction of Wolverhampton Street and an unadopted road leading to a public car park, is the site of a former shop which was demolished due to structural problems. No.60 is a detached building which was formerly used as a sauna. This fronts the unadopted road and is adjacent to a garage building which provides vehicular access to the warehouse element of no.61. Half of the width of this road is included within the application site and it is stated to be within the applicant's ownership.

The applications propose:

- the erection of a three storey building on the site on no.59. This would provide an extension to the shop at no.61 and ancillary office and staff facilities on the upper floors. The upper floors of no.61 would also be reorganised to form part of this accommodation.
- the demolition of no.60, partly due to structural problems and partly to facilitate the redevelopment of the site. A Structural Engineer's report has been submitted in respect of the building.
- the erection of a three storey building on the site of no.60, containing warehouse /office/ staff space for the business at no.61 and to allow an expanded range of health related services to be offered.
- alterations to the shopfront of no.61 including the provision of roller shutters

The planning application states that there would be no increase in staff arising from the extended building; the extensions are required to improve staff conditions and increase the efficiency of the business. Current servicing arrangements, via the unadopted road, would continue; there are approximately 4 to 6 delivery vehicle movements per day. There is no on site parking available.

The site is within Willenhall District Centre and Willenhall Conservation Area. No.61 is a locally listed building as was no.59. There are some residential properties, including one on the opposite side of the unadopted road, although the predominant use is retail.

Relevant Planning Policy Summary

(Note: the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan

GP2 and 3.6 require new development to make a positive contribution to the quality of the environment.

GP6 promotes improved access for disabled people

ENV28 relates to buildings which are included on the local list of buildings of historic or architectural interest. Development which adversely affects local list buildings will not be permitted.

ENV29 sets out criteria to assess whether development protects or enhances a conservation area

ENV32 states that proposals which fail to take account their context or surroundings will not be permitted.

ENV35 states that the design of frontages to shops should be appropriate to their setting and the building on which they are situated.

S1 includes retailing as a suitable use for town and district centres

S2 define the site as within Willenhall District centre.

T7 and T13 relate to car parking.

WH4IV encourages the use of land rear of no.58 Wolverhampton Street (i.e. on the opposite side of the private road from the application site) to provide additional public car parking and improved access to the existing car park.

Policy DW3 of Designing Walsall Supplementary Planning Document, which was adopted in February 2008, sets out the requirement to maintain the historic character of Willenhall.

Willenhall Conservation Area Appraisal 2007

National Policy

Planning Policy Guidance Note 15 Planning and the Historic Environment paragraphs 4.25 - 4.29

Relevant Planning History

04/0346/FL/W3 Rear two storey extension, new shop fronts, re-roofing, remove existing chimney stacks. Granted subject to conditions 20.9.2004

05/0666/FL/W3 Change of use to form part of 8 p.m. Chemist at 59-61 Wolverhampton Street. Granted subject to conditions 25.5.2005

Consultations

07/1438/FL/W3

Transportation: No objection

Fire Service: No objection

Environmental Health: No objections. Recommends a condition relating to mitigating measures for any air conditioning equipment to be installed.

Conservation Officer: Supports the application.

Urban Design Officer: Supports the application

08/1932/CC

Transportation: No objection. Recommends a condition to minimise the impact of the demolition and construction on the public highway.

Pollution Control:

Contaminated Land Team: no objection.

Scientific Team: no objection

Conservation Officer: No objection. Recommends conditions relating to building recording.

Representations

One letter of objection has been received in respect of the original plans received for 07/1438/FL/W3. The author also refers to 08/1932/CC. His concerns are:

- the demolition of no.60 would create the opportunity for improved parking and access to the rear of their building. At the moment the company has a small Citroen van and a white Transit type van which are more or less permanently parked outside no.61 making access to the public car park difficult. Also trucks or vans delivering to the service access tend to block the street quite frequently.
- the redevelopment of the site at no.59, which has been an eyesore and nuisance for the past two years, is completely out of keeping with the architecture of the surroundings. It would dominate the site. The opportunity should be taken to widen the access up to the car park since at the moment refuse trucks and HGV deliveries to the chemist have to reverse back into Wolverhampton Street.

Neighbours have been reconsulted on the latest amended plans and any response will be reported to the meeting.

Determining Issues

- the effect of the design of the proposals on Willenhall Conservation Area
- the amenity of adjacent occupiers
- parking and access

Observations

The effect of the design of the proposals on Willenhall Conservation Area

No.60 is an attractive building and provides an active frontage to the unadopted road which leads to the public car park. It is not a listed building or on the local list; it is not therefore one of the best buildings in the conservation area, although it has value as part of a varied group of buildings which contribute to the character of the area.

The proposed demolition of no.60 is put forward partly because of its poor structural condition, as outlined in the structural survey, and partly because it would enable the comprehensive development of its site with the vacant site of no.59 as an extension to the business at no.61. For the demolition of no.60 to be acceptable there has to be an acceptable proposal for the redevelopment of the site.

The scheme put forward under 07/1438/FL/W3 proposes a building on the corner of Wolverhampton Street with the unadopted road which reflects both the features on no.61 and of the now demolished no.59. It matches the height of no.61 and produces a good corner feature. This building demonstrates continuity with no.61 and the relationship between the two buildings would aid the overall character and setting of the conservation area.

The replacement building for no.59 is of a completely different style to the replacement for no.60 although it is of the same height. The proposed replacement for no. 60. is modern in style and has a commercial appearance but the difference between this and the buildings fronting Wolverhampton Street reflects the various ages and styles found in the district centre.

Suggestions have been made for materials and finishes for the existing and proposed buildings. Not all of these are acceptable but this could be resolved by condition if planning permission is to be granted.

The amenity of adjacent occupiers

To the east the proposed building at no.60 would look across the rear warehouse of no.61 towards the rear of the adjacent bank. This replicates the existing relationship between no.60 and its neighbours and as both are commercial there would be no significant privacy issues.

The windows in the west face towards a doctor's house and surgery (no.58) which has windows at back of pavement to the unadopted road. The proximity of these windows to the road to the public car park means that they do not presently have a lot of privacy and it is not considered that the shop and office windows proposed for the replacement no.59 would significantly worsen the situation.

The windows in the replacement building for no.60 would face towards no.58's garden but again this replicates the relationship with the existing building on the site and it is not considered that this would make a significant difference to privacy in the garden of this property.

Parking and access

The proposal would create additional floorspace for an existing use. This is likely to result in additional staff being taken on, if not now, then in the future. There is no off-street parking specifically available for the site but there are public car parks very close to the site and given its location in a district centre, with good access to public transport, this would not be a problem for either staff or shoppers.

The vehicles belonging to the business do park in the unadopted road. There are no parking restrictions on this road and part of it is within the applicant's ownership/site. It would not be possible for the Council to control parking which takes place on the applicant's half.

Access to the chemist's and its associated business will be improved by the proposal for both disabled people and people with pushchairs.

Vehicular access will remain the same, from the unadopted road. While this is not ideal there is no alternative location available. The application indicates that the new buildings/rearrangement of the existing is intended to improve the efficiency of the business. This would potentially involve fewer vehicle movements.

07/1438/FL/W3 - Summary of Reasons for Granting Planning Permission

The proposed development would, through a combination of replacement and refurbishment, improve the appearance of a locally listed building and a prominent corner of Wolverhampton Street using buildings which are of similar scale to their neighbours and which reflect the variety and ages of building within the Conservation Area. The proposed development would be of benefit to the character and visual amenity of Willenhall Conservation Area. It would also improve facilities for shoppers by enlarging an existing shop and improving access to it for disabled people. The proposal will also provide a replacement building for the distribution of chemists goods which will enable the business to operate more efficiently and which will potentially reduce delivery vehicle movements to and from the site. Since the site is within Willenhall District Centre, which is easily accessible by public transport and where car parking is available, it is not necessary for the development to provide its own parking.

The approval of this application would be in accordance with policies GP2, 3.6, GP6, ENV28, ENV29, ENV32, ENV35, S1, S2, T7 and T13 of Walsall's Unitary Development Plan and DW3 of the adopted Designing Walsall Supplementary Planning Document.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. Notwithstanding the details already submitted, no development shall be carried out until samples of the facing materials to be used in the development and an example of the pointed brickwork have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development in the interests of the visual amenity of Willenhall Conservation Area.

3. No development shall be carried out until details of the proposed external treatment (and any colour to be applied to it) of the first floor flat roofed extension to the rear of no.61 which is referred to as 'female w.c.' on drawing no.L03revA have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of Willenhall Conservation Area.

4. No development shall be carried out until details of the proposed colour of the existing and proposed rendered shopfronts of nos. 61 and 59 Wolverhampton Street have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development in the interests of the visual amenity of Willenhall Conservation Area.

5. No development shall be carried out until details of the proposed materials, colours and finishes of the windows and doors in the existing and proposed nos. 61 and 59 Wolverhampton Street have been submitted to and approved in writing by the Local Planning Authority.

6. No development shall be carried out until details of the type, surface treatment and colour of the proposed roller shutters, together with detailed drawings showing the position of the shutters, the shutter guides and the extent of the shutters have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development in the interests of the visual amenity of Willenhall Conservation Area.

7. No development shall be carried out until details of the design, materials and colour of the proposed ramp to the works entrance and any railings or walls necessary to its safe operation have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the satisfactory functioning and appearance of the ramp.

8. This development shall not be carried out other than in conformity with the approved plans and documents, except as may be required by other conditions of this permission or by any subsequent approved amendment or permission.

Reason: To define the permission to ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted.

08/1932/CC - Summary of Reasons for Granting Planning Permission

The demolition of this building, which is in a poor condition, would enable the refurbishment of a locally listed building, no. 61 Wolverhampton Street, and the redevelopment of the adjacent vacant site, in a manner which would rejuvenate this prominent corner of Wolverhampton Street, to the benefit of the character and visual amenity of Willenhall Conservation Area. The approval of this application would be in accordance with policies GP2, 3.6, ENV28, ENV29, ENV32 and ENV35 of Walsall's Unitary Development Plan and the adopted Designing Walsall Supplementary Planning Document.

Recommendation: Grant Cons. Area Cons.

1. No demolition shall take place until a contract has been made for the carrying out of works of redevelopment on the site, and a planning permission has been granted for the redevelopment for which the contract provides.

Reason: To prevent the creation of a long term demolition site which would be to the detriment of the visual amenity and character of the Willenhall Conservation Area.

2. No demolition shall take place until a full historical building survey has been undertaken in accordance with a brief to be agreed in writing by the Local Planning Authority. A copy of the completed building survey shall be submitted to the Local Planning Authority in accordance with a timescale to have been agreed as part of the brief.

Reason: To ensure the satisfactory recording of this building within Willenhall Conservation Area.

3. No demolition shall take place until a brief for a programme of archaeological observation and recording has been agreed in writing by the Local Planning Authority. The programme of archaeological observation and recording shall be carried out in accordance with the approved brief and in accordance with a timescale to be agreed as part of that brief.

Reason: To ensure that archaeological remains and historic structures are observed and recorded during the development of the site.

4. No demolition shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority detailing how demolition shall be conducted to minimise the impact of the work on the highway network. The demolition shall be conducted in accordance with the approved method statement.

Reason: To minimise the effect of demolition on the highway network.

5. This decision grants permission only for the demolition of the building referred to as No.60 Wolverhampton Street, Willenhall and hatched in red on the location plan numbered L14 deposited on 19.12.08.

Reason: To define the permission.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Major application

Application Number: 09/0749/OL

Application Type: Outline Application

Applicant: A S K Securities Ltd

Proposal: Outline: Erection of new building for Class C2 (residential/nursing home) purposes (details to include access, appearance, layout and scale)

Ward: Blakenall

Recommendation Summary: Grant Permission Subject to Conditions and a Planning Obligation

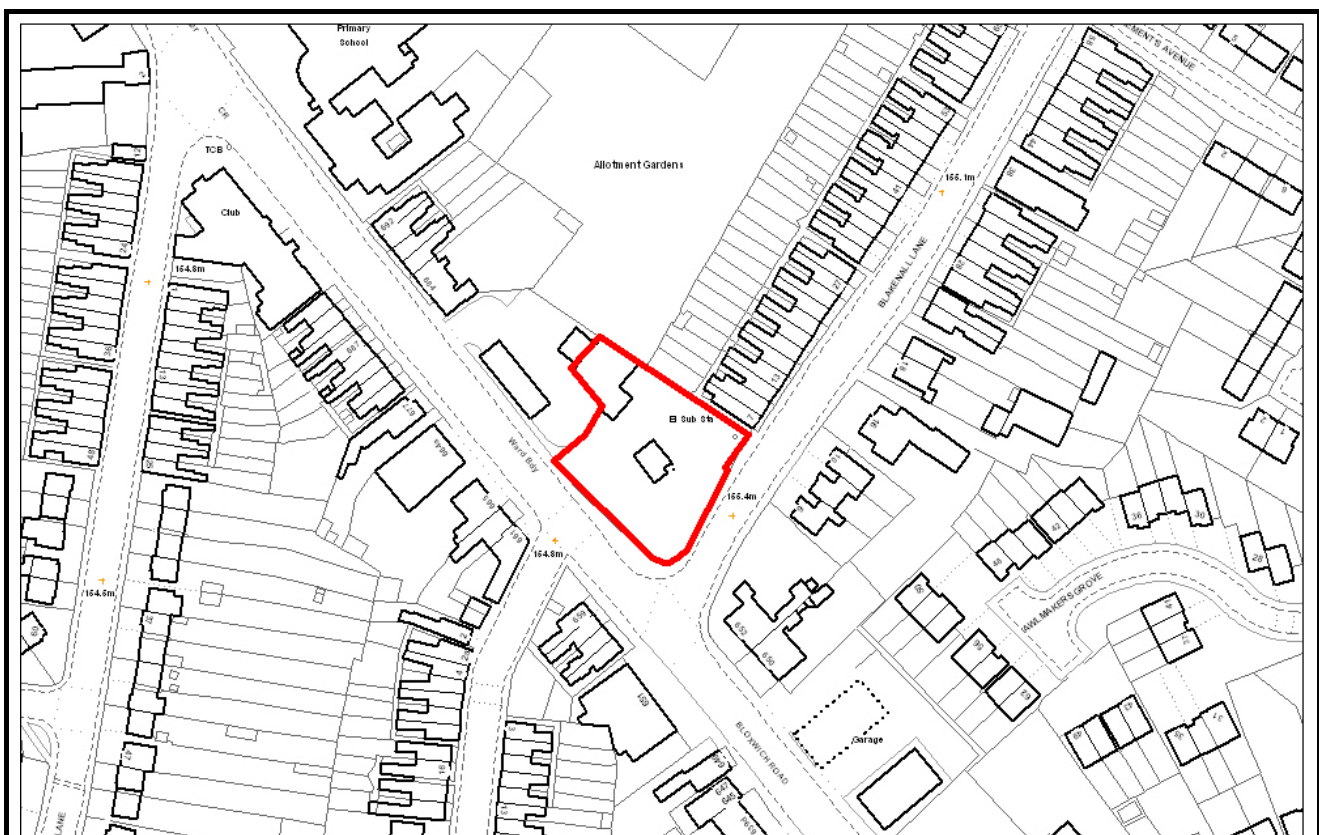
Case Officer: Alison Deakin

Telephone Number: 01922 652487

Agent: GT Designs

Location: LAND CORNER OF
BLOXWICH ROAD/BLAKENALL
LANE, BLOXWICH

Expired: 27/10/2009



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Application and Site Details

The proposal is to erect a residential care/nursing home at this site at the corner of Bloxwich Road and Blakenall Lane. The site is currently occupied by ASK Motors for car sales purposes. There is a boundary wall and railings around the front perimeter, a single storey sales office building within the centre of the site and a car repair workshop towards the rear of the site. There is also an MEB sub-station on the north-eastern boundary of the site beyond which lies terraced housing in Blakenall Lane. There is a car wash on the adjacent site on Bloxwich Road and allotments to the rear. There are further commercial properties in the vicinity fronting Bloxwich Road.

The proposal is outline with all matters except for landscaping to be determined. The proposed building is "L" shaped and faces both road frontages with vehicular access from Blakenall Lane passing beneath the upper floors. The parking area and private amenity space is at the rear of the building. There are 13 car parking spaces located within the rear parking courtyard plus an ambulance space and 1 disabled parking space. Shared external amenity space is located immediately to the rear of the building.

The proposals show the building has 38 bedrooms plus shared lounge and dining areas plus kitchens, offices and staff accommodation. The applicant states that there will be approximately 15 staff but that only 8 staff would be on duty at any one time.

The proposed building is predominantly three storeys high reducing to two storeys at each end. It has a hipped roof and features projecting bay windows with gable roofs. The projecting bays are at regular intervals and will be constructed in an alternative facing material to the remainder of the building. There is a regular pattern of windows and entrances from the street.

The application site area is 1085 sq. m (0.1 hectares) and the proposed floor space is 1300 sq. m.

Relevant Planning History

06/1575/OL/E12 – Outline: Redevelopment of used car establishment by erection of 20 apartments (details to include siting, design and means of access) – Granted Subject to conditions and a S106 Agreement 6/12/06. The S106 Agreement related to Public Open Space and Education provision.

05/2031/OL/E3 – Outline: Erection of 23 Apartments (siting, design and means of access) – Refused 20/12/05 for four reasons broadly relating to: (1) height, design and massing of the building out of keeping and represents over-dominant building, blank three storey gable provides an abrupt visually detrimental feature on the main strategic corridor, limited scope for landscaping, inadequate amenity space, (2) Proximity of car parking and overlooking 7 Blakenall Lane detrimental to residential amenities, (3) Unacceptable demand on limited education capacity within the locality and (4) inadequate parking provision prejudicial to highway safety.

Various permission relating to the ASK Motors premises.

Relevant Planning Policy Summary

Unitary Development Plan

(Note the full text version of the UDP is available from Planning Services Reception and on the Planning Services Website)

GP1: Supports the sustainable location of development.

2.2, 3.6, 3.7, & GP2: seek to make a positive contribution to the quality of the environment, whilst protecting people and ensuring adequate and safe access is provided.

GP3: Planning obligations will be used to secure any on or off-site mitigating measures made necessary by a development.

GP4: local area regeneration by helping to bring forward derelict, vacant or underused land and buildings for new uses.

3.16: The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV10 – deals with Pollution effects from developments including ground contamination and noise.

ENV13: In order to protect the general amenity of occupiers and users, development for uses other than industry and warehousing will not normally be permitted in close proximity to high voltage electricity transmission lines, substations or transformers.

ENV14: The Council will encourage the reclamation and development of derelict and previously developed land.

3.16, GP7, ENV32, H10 and 3.116: seeks the design of residential developments to create high quality living environments, well integrated with surrounding land uses and local character. Poorly designed development which fails to properly take account of the context or surroundings will not be permitted. Designing out crime' through design, layout, landscaping and boundary treatments is encouraged.

3.117 & ENV33: deals with landscape design and opportunities to create and enhance environmental quality.

ENV34: Requires the provision of public art to enhance the quality and individuality of existing buildings, spaces or new development.

ENV40: Adequate foul and surface water drainage infrastructure should be provided.

6.3 & H3: Encourage the provision of additional housing through the re-use of previously developed land provided a satisfactory residential environment can be achieved.

H5: Promotes provision of housing for people with special needs including the elderly, ethnic minorities and people with disabilities.

H6: Provision of nursing homes and homes for the elderly will normally be appropriate in mixed residential/commercial areas. Detailed considerations include vehicular access and parking, amenity and landscape.

H9: Housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites, however higher densities are encouraged in locations close to town and district centres and in locations with good accessibility to a choice of means of transport.

7.1: Seeks to promote an efficient highway network;

T7: All development should satisfy the car parking standards set out in Policy T13: sets maximum car parking standards, account should be taken of the location of development in relation to local facilities and public transport and unless demonstrated

Residential homes - 1 space per 3 beds

Nursing Homes – 1 space per 2 beds

Supplementary Planning Documents (SPD)

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3 – Character -design to respect and enhance local identity;

DW4- Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 Ease of movement- create places that are easily connected, safe to move through;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW9 – High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 20m² per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Regional Spatial Strategy for the West Midlands

Promotes sustainable regeneration of previously developed land, promoting a high quality environment and sustainable development capable of being accessed by a variety of transport modes.

Relevant policies include UR1, UR1b, UR1c and UR3 which seek to regenerate urban areas and in particular the major urban areas. Policies CF1, CF3, CF4 and CF5 seek to encourage housing in sustainable locations.

Policies QE1, QE2, QE3, QE4 and QE5 which seeks to improve the quality of the environment whilst preserving quality and historic buildings and locations. The policies also aim to enhance public spaces and urban green space. Policy CC1, EN1, EN2 seeks to conserve energy and address climate change.

Policies T2, T3, T4, T5 and T7 seek to reduce the need to travel and promote sustainable modes of transport.

National Policy

PPS1: Promotes sustainable and inclusive patterns of urban and rural development.

PPS3: Seeks to achieve a wide choice of high quality homes and mixed housing to support a wide variety of households in all areas and provide a sufficient quantity of housing taking into account need and demand.

PPG13: Promotes sustainable patterns of development which reduce the need to travel, especially by car.

Consultations

Transportation – No objections subject to provision of additional information relating to access and parking. The parking standards for Nursing Homes are 1 space per 2 beds and for Residential Homes it is 1 space per 3 beds. The proposal incorporates 14 spaces including a disabled space and ambulance space. The development of a 38 bed unit would meet the Residential Home standard for 13 spaces but would not meet the Nursing Home standards which would require 19 spaces. However, a previous approval for residential development on the site accepted a lower level of parking (110%). This was on the basis that this site is located on a showcase bus route with good access to public transport, and that secure cycle parking was to be provided as well as information within the Design & Access Statement on likely staff numbers and shift patterns. The situation still applies to the current proposals and therefore the level of parking is acceptable for a Nursing Home in this location.

Vehicle access will be via a single point off Blakenall Lane through a slightly repositioned existing crossing. The redundant accesses off Bloxwich Road will be permanently closed. The access drive into the development is inadequate in terms of width as it is only 3.2 metres wide and should be increased to 4.1m to allow two-way traffic movements. There is space to achieve this within the site and amended details are to be provided. Visibility at the access is acceptable.

Pollution Control (Contaminated Land) – No objections subject to a desk study and site reconnaissance being carried out to identify the potential for contaminants and/or ground gases likely to be present on the site. If these are identified on site a ground contamination survey and site investigation should be carried out to identify risk to future occupants or structure on the site. Conditions to address these concerns are recommended.

Pollution Control (Scientific Team) – No objection. However, the proximity of the first floor bedroom to the relocated electricity sub-station at the north eastern corner of the site causes concern in respect of low frequency noise and electro-magnetic fields. The separation between the bedroom and the sub-station should be increased to 5m to resolve potential for low frequency noise and electro magnetic fields from harming residential amenities. The applicant should demonstrate how the scheme will address these issues in order to protect residential amenities.

Access Officer – No objection.

Centro – No objections. The site is located on Bloxwich Road, which is well served by a large number of bus services that link the site to Walsall Town Centre. Given the nature of the development, it is likely that some residents would want to take advantage of the Ring and Ride service provided by West Midlands Special Needs Transport Ltd. The final design for the site access and road geometry should allow for accessibility by Ring and Ride vehicles and include the provision of an appropriate turning facility for the same.

Fire Officer – No objections.

Police Architectural Liaison Officer – No objections. Recommend design and build to achieve Secured by Design accreditation.

Public Participation Response

Two letters of objection received which are summarised as follows:

- environment and planning issues
- limited parking in the area for existing residents of terraced housing
- parking restrictions in the area results in parking for existing businesses outside homes
- exacerbate parking problems in the area
- noise and pollution from comings and goings
- potential impact upon adjacent car wash

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Principle of residential care/nursing home development
- Design & layout
- Access & parking
- Relationship to surrounding properties
- Provision of public art

Observations

Principle of residential care/nursing home development

The principle of redevelopment of the site for residential purposes has already been accepted in granting outline planning permission for the erection of 20 apartments (in December 2006). The current proposals offer the opportunity to make good use of urban land and buildings and efficient use of the existing infrastructure. The site is located on a bus showcase route accessible by public transport, it is located just outside but within walking distance of Leamore Local Centre and within a mixed commercial and residential area. A higher density scheme is considered appropriate in this sustainable location.

The current proposals seek outline permission to erect a residential care/nursing home in an almost identical building and site layout to that already approved for the apartment scheme. As policy H6 promotes provision of nursing homes and homes for the elderly in mixed residential/commercial areas such as this, the residential care/nursing home is considered acceptable in principle.

Design & layout

The site layout, appearance and scale of the proposed building are almost identical to the approved apartment building. The building fronts both Bloxwich Road and Blakenall Lane with secure parking and private amenity space at the rear. The building is largely 3 storeys but reduces to two storeys at either end in order to respect the scale and height of

surrounding housing. The design of the building will create a landmark at the corner of the site on the approach to Blakenall Village Centre.

The footprint of the building is almost the same as that approved for the earlier apartment scheme which varies between 10.2 and 15 metres in depth (the largest part being at the front corner). The maximum height is 12m but the ends of the building reduce to two-storeys which are 9.2m high. There is separation between the proposed building and the adjacent properties as the electricity sub station provides a gap along the Blakenall Lane frontage and there is a 2.5 metre gap along the Bloxwich Road frontage (that reduces to 1m towards the rear) where the adjacent site is the car wash premises. The building will sit comfortably amongst its surroundings therefore without causing harm to visual amenities.

There are three pedestrian access points from the building to the street which will create activity and provide surveillance of the street. The elevations of the building replicate gables and roof patterns that are seen in the immediate area and parts of the design repeat the terraced pattern of dwellings in Blakenall Lane.

The building abuts the electricity sub-station along Blakenall Lane and Pollution Control are concerned at bedrooms close to the station vulnerable to low frequency noise and electro magnetic fields. However, the relationship between the building and the sub-station is no different to that already approved that was considered acceptable subject to requiring that the developer confirms that the position of the building is within the guidelines recommended by the International Committee of Non-Ionising Radiation Protection (ICNIRP). A similar requirement could be imposed on this proposal and Pollution Control are satisfied with this arrangement.

Proposed bedrooms face front and rear served by a central corridor. This creates single aspect rooms, with those at the rear being north-facing. However, each occupier does have access to a shared lounge (one on each floor) which faces the opposite direction and therefore offers an alternative outlook. The communal rooms such as the lounge and dining areas and the lift are located at the corner of the building. Access to the rear amenity space is via the communal dining area and reception. The relationship between the building and the shared rear amenity area is no different to the approved scheme for the apartments.

Access & parking

The proposed means of vehicular access to the site is via Blakenall Lane beneath the first floor of the building. Transportation is satisfied that it is possible to increase the width of the access from 3.2m to 4.1m to enable two-way traffic to pass. Revised details are recommended to achieve this.

The parking requirement for residential homes is 1 space per 3 beds which requires 13 car parking spaces for the 38 bed unit proposed. As 13 spaces are shown, the proposals satisfy this parking requirement. The proposed alternative use of the site is for a Nursing Home which requires 1 space per 2 beds which would need 19 spaces. The site does not achieve this level of parking but is located on a bus showcase route, just outside but within walking distance of Leamore Local Centre and close to Blakenall Village and is therefore considered to be a sustainable location. In addition the approved apartment scheme on the site also accepted a lower parking provision (110%). The anticipated levels of staff numbers and shift patterns have also been considered in determining demand for parking.

Given the above matters the lower level of parking were the site to be occupied as a nursing home is considered acceptable and would not have any adverse impact on the surrounding highway network.

Objectors are concerned that the proposals will exacerbate parking problems in the area as there is already limited parking available for residents of terraced housing. Also, that parking restrictions in the surrounding streets often result in visitors to surrounding commercial properties parking in residential streets causing congestion. However, the proposals provide an acceptable level of off-street parking as referred to in the above paragraph and include provision of bicycle storage to encourage residents, staff and visitors to use an alternative means of transport. These measures combined with the sustainable location of the site should reduce potential for additional on-street parking to cause problems in the surrounding streets.

Relationship to surrounding properties

Policy GP1 seeks to make the best use of urban land and buildings provided that this does not prejudice beneficial use of adjacent land or buildings. The position of the building is no different to that already accepted for an apartment scheme at the site. The relationship between the proposed building and surrounding residential occupiers will have no greater impact upon outlook, privacy or daylighting.

There is a window in the loft space of the gable end of 7 Blakenall Lane adjacent that directly overlooks the site. However, there is at least a 3.7m separation between the buildings due to the presence of the sub-station and the side passageway alongside 7 Blakenall Lane. The proposed building has been reduced in height to two storeys at this point and despite the proximity of the gable window, the proposals will not have a significant detrimental impact upon the neighbour's amenity. The boundary between the two sites is also to be enhanced by provision of landscaping that will provide a buffer between the car park area and the neighbour's garden and reduce potential for noise and disturbance from cars using the car park. The change from car sales to residential would also reduce the potential for comings and goings associated with the present commercial use and will be an improvement.

The proposed building has no windows directly overlooking the adjacent car wash. The boundary between the two sites is proposed to be enhanced by provision of landscaping and in the circumstances there will be no significant detrimental impact upon residential amenities of future occupiers. Consideration of the relationship between a residential use of the site and adjacent car wash has also already been accepted in granting permission for the previous apartment scheme.

Provision of public art

Under the terms of policies GP3 and ENV34 of the UDP and policy DW9 of the SPD: Designing Walsall the development would attract the need for a S106 Agreement to ensure provision of Public Art. On the basis of policy DW9 a contribution of £5 per square metre is required for qualifying development of 1000 sq m and above. As the proposed floor space is 1300 sq m a contribution of £6500 is required in this instance. The developer has offered to provide a Unilateral Undertaking to cover the provision of public art up to £6500 (and the Council fees up to £2900). In the circumstances provision of public art will be secured.

Summary of Reasons for Granting Planning Permission

The principle of residential development of the site is acceptable as it offers the opportunity to make good use of urban land and buildings and efficient use of the existing infrastructure. It is a sustainable location and provides the opportunity to create a mix of housing in the area and provide accommodation for a Nursing/Residential Care Home.

The site layout, appearance and scale of the proposed building are acceptable in the surrounding context as the building addresses both street frontages, provides a satisfactory living environment for residents (as there is safe and secure shared private amenity space and parking areas at the rear). The design of the building reflects elements of the surrounding housing. The relationship to the sub-station is acceptable subject to details to confirm compliance with ICNIRP guidelines to protect residential amenities and satisfy pollution control concerns.

Satisfactory access can be achieved on site subject to provision of amended plans to widen the access. Despite neighbour's concerns regarding levels of parking the provision complies with policy in terms of parking requirements for a residential home. Although it does not comply with parking requirements for provision of a nursing home this is a sustainable location and the proposals are considered acceptable as they will not create any significant problems in terms of highway safety.

The relationship to surrounding occupiers maintains privacy and provides enhanced boundary treatment. This will enhance the visual aspect of the site and reduce potential for noise and disturbance. The relationship to the adjacent car wash is no different to the earlier apartment scheme and as no habitable room windows are included in the gable elevation of the proposed building nearest the boundary this protects residents from potential noise and disturbance and maintains privacy.

Provision of Public Art can be secured through a Unilateral Undertaking.

For the above reasons the proposals are considered to comply with policies 2.2, 3.6, 3.7, GP1, GP2, GP3, GP4, GP7, 3.16, ENV10, ENV13, ENV14, ENV32, ENV33, ENV34, ENV40, 6.3, H3, H5, H6, H9, H10, 3.116, 3.117, 7.1, T7 and T13 of Walsall Unitary Development Plan, Supplementary Planning Document: Designing Walsall and the Regional Spatial Strategy for the West Midlands (RSS).

Recommendation: Grant Permission Subject to Conditions and a Planning Obligation

- 1) Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than;
 - (i) 3 Years from the date of decision
 - (ii) 2 years from the approval of Reserved Matters or in the case of approval of the last reserved matter.

Reason: pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2) This development shall not be commenced until details of the following Reserved Matter has been submitted to and approved by the Local Planning Authority:

(a) The landscaping of the site.

Reason: pursuant to Article 7 (1) of the Town and Country Planning General Development Order 1988.

3) This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Location Plan received 22/07/09
- Existing Site Plan (GT387-1) received 22/07/09
- Proposed Site Plan (GT387-2) received 22/07/09
- Proposed Ground Floor Plan (GT387-2) received 22/07/09
- Proposed First Floor Plan (GT387-3) received 22/07/09
- Proposed Second Floor Plan (GT387-4) received 22/07/09
- Proposed Elevations and Brick Wall Detail (GT387-5) received 22/07/09
- Design & Access Statement prepared by G S Benning dated 25th September 2009 received 28/09/09

Reason: To ensure the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted (except in so far as other conditions may require).

4) No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

5) No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity of the area and to ensure satisfactory development of the site.

6) No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

7) Prior to the commencement of the development a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing the vehicular access drive widened to 4.1m to allow two-way traffic movement. The revised access shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To maintain highway safety.

8) Prior to the first occupation of the development, the redundant vehicle crossings in Bloxwich Road shall be reinstated to full kerb height and the new vehicle crossing to serve the development in Blakenall Lane shall be constructed in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety.

9) Prior to the first occupation of the development, all accessways and parking areas shown on the approved plan shall be fully consolidated, surfaced and drained and the parking bays clearly demarcated on the ground and shall thereafter be retained for this purpose.

Reason: To ensure availability of adequate off-street parking.

10) No development shall commence on site until full details of the proposed bicycle and bin stores have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained thereafter unless the Local Planning Authority agrees in writing to any variation. The development shall not be occupied until these facilities are fully available and shall be retained thereafter unless the Local Planning Authority agrees in writing to any variation.

Reason: To ensure the satisfactory appearance of the development and to ensure availability of facilities to future occupiers and ensure no conflict with other users of the access beneath the building.

11) No development shall commence on site until details of the membrane to avoid root penetration to the wall along the northern boundary have been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used to complete the scheme and retained at all times.

Reason: To ensure the stability of the boundary wall given landscaping will be included in this vicinity.

12) Prior to the commencement of the development the following matters shall be addressed:

- I. A desk study and site reconnaissance shall be conducted to identify the potential for contaminants and/or ground gases likely to present a risk to proposed structures or future occupants of the development to be present on site. Results of the desk study and site reconnaissance shall be submitted to and agreed in writing prior to built development commencing. (see Note for Applicant CL 4)

- II.**In the event that the desk study and site reconnaissance indicates the potential presence of contamination and/or ground gases on site. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)
- III.**Prior to built development commencing a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- IV.**Prior to built development commencing a “Remediation Statement” setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)
- V.**The remedial measures as set out in the “Remediation Statement” required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- VI.**If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part ii) of this condition is encountered development shall cease until the “Remediation Statement” required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- VII.**A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)

Reason: To ensure safe development of the site and to protect human health and the environment.

13) No development shall commence on site until details of the type and specification of glazing to be installed, type and specification of ventilation to be installed and type and specification of fencing to be installed have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained thereafter.

Reason: To protect residential amenities of future occupiers.

14) No development shall commence on site until the developer has obtained written confirmation from the electricity supplier or other relevant body that the electro-magnetic fields from the sub-station are within guidelines recommended by the International Committee on Non-Ionising Radiation Protection (ICNIRP) and details submitted to the Local Planning Authority for written approval.

Reason: In the interests of the amenity of the residents of the proposed development

15) No development shall take place until details of the access control system for the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained in working order throughout the life of the development.

Reason: To secure the site for potential occupiers.

16) No development shall commence on site until the boundary details have been submitted to and approved in writing. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

17) No external lighting shall be installed on the site unless or until details have been submitted to and approved in writing by the Local Planning Authority. Any details of external lighting approved by the Local Planning Authority shall be installed in accordance with the approved details and retained as such.

Reason: To safeguard the visual amenities of the area.

18) The landscaping buffer (shown as hedging on drawing GT387-2) between the disabled car parking bay, ambulance parking and car parking bays 10 to 13 and the shared amenity space shall be retained at all times.

Reason: To ensure a private useable amenity area is available for residents.

19) The landscape buffer to the north of the application site shall be retained and maintained at all times.

Reason: To ensure the safety and stability of the boundary wall and to safeguard the visual amenities of the area.

20) No demolition, engineering, or construction works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 08.00 to 18.00 weekdays and 09.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the amenity of neighbouring occupiers.

Notes for the Applicant

1) The applicant is advised to contact the Highway Information section with regards to the reinstatement of the redundant crossovers and construction of the new access.

2) Notes for applicant in respect of contaminated land (condition 12)

CL1

Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 – Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites – Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings (Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 "Model Procedures for the Management of Land Contamination", The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 "Updated technical background to the CLEA model" and Science Report – SC050021/SR2 "Human health toxicological assessment of contaminants in soil" or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the "as installed" remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported "clean cover" materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

CL4

The desk study and site reconnaissance shall have regard to the previous unknown filled ground and materials used and processes carried on. Further details on the matters to be addressed is available in "PPS 23 : Planning and Pollution Control", Annex 2, Development on Land Affected by Contamination", paragraphs 2.42 to 2.44. and "Model Procedures for the Management of Contamination" (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. If the application was approved by the Development Control Committee, the report can be viewed on the Council's web site at www.walsall.gov.uk



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Significant community interest

Application Number: 09/0882/FL

Application Type: Full application

Applicant: Mr Michael Lewis

Proposal: Resubmission following refusal of
09/0288/FL for creation of five bedroom house.

Ward: Aldridge North and Walsall Wood

Recommendation Summary: Grant Subject to conditions

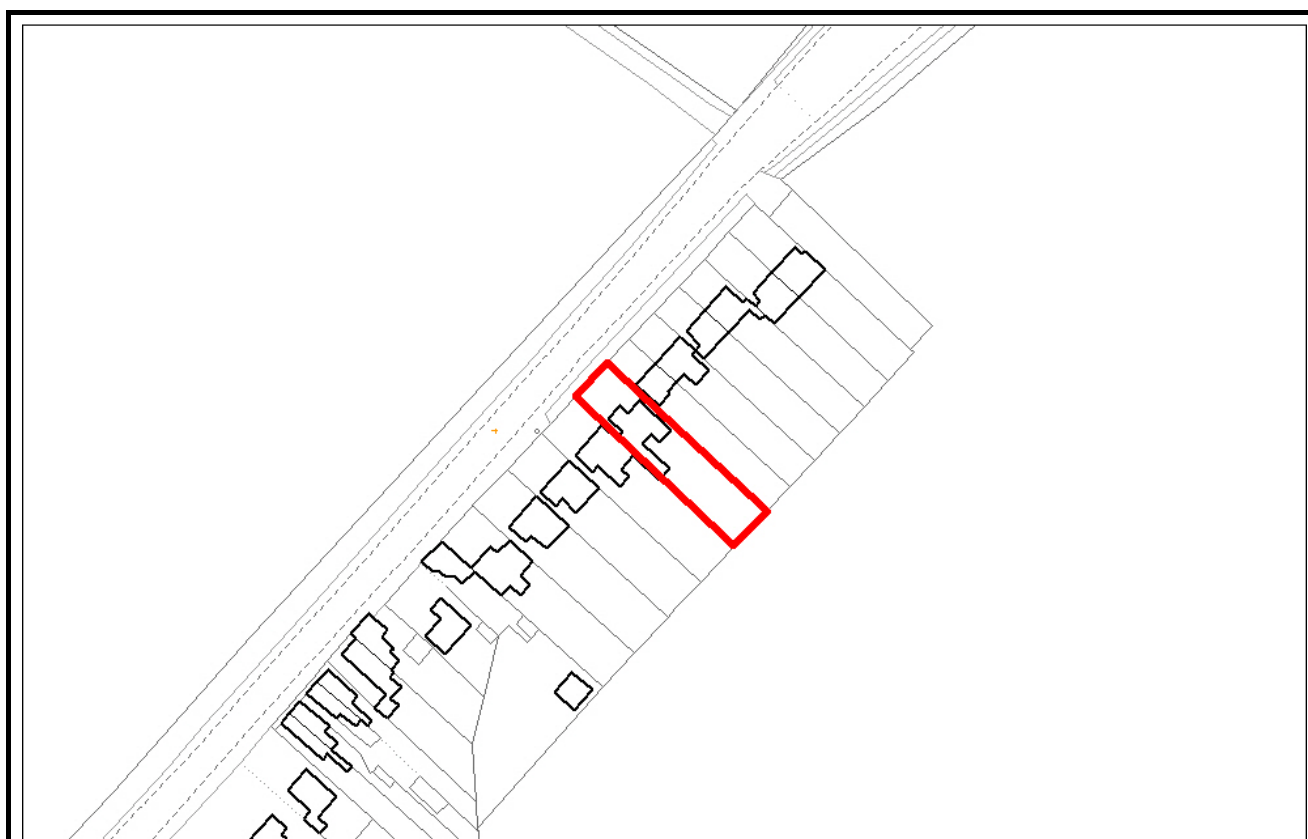
Case Officer: Paul Hinton

Telephone Number: 01922 652420

Agent: The Design Group

Location: 146 LICHFIELD
ROAD, WALSALL WOOD, WS9 9PF

Expired: 24/09/2009



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Application and Site Details

This application has been submitted in response to the refusal of permission for a replacement dwelling in the Green Belt. The application seeks planning permission to replace the previously extended two bedroom bungalow with a five bedroom detached house.

The proposal would increase the footprint from 140m² to 149m² by increasing the ground floor to the rear and bringing the front of the ground floor flush with an existing projecting gable. The width of the house would remain the same as the existing bungalow but the existing enclosed car port would be removed, leaving a driveway behind a set of gates. The proposal would raise the height of the pyramid roof from 4.7m to 6.7m. Two dormer windows are proposed to the front and rear elevations with an additional bay window introduced to the ground floor frontage.

The application site is located along the strategic highway of Lichfield Road at the northern boundary of the Borough which is shared with Lichfield. Both across the road and to the rear of the application site are vast open fields. A small number of houses form the boundary of the urban area, then opening out into the countryside. There are a mix of housing designs in the vicinity with hipped roof semi-detached houses, bungalows and gable end detached dwellings located at the back of the pavement and detached houses set back from the pavement. The bungalow sits between a bungalow at 144 Lichfield Road and a semi-detached house at 148 Lichfield Road. The application site has a mature hedge and wall defining the front boundary.

Relevant Planning History

146 Lichfield Road

BC17212 – Erection of a car port. Granted 12/2/1981.

09/0288/FL – Erection of six bedroom house. Refused 10/6/2009 for the following summarised reasons:

- Inappropriate development materially larger than the existing dwelling.
- Appeared incongruous, unbalanced and unrelated to the surrounding development.
- Protected species survey was based on too few survey visits.

110 Lichfield Road

BC64281P – Erection of two storey detached dwelling and double garage. Granted subject to conditions 16/1/2001.

116 Lichfield Road

04/0399/FL/H4 - Ground and first floor extensions and alterations and new access driveway. Granted subject to conditions 12/5/2004.

Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan

2.1 & 2.2 define the aims of sustainable development, urban regeneration, & environmental improvements are identified.

GP1: sustainable location of development. This supports developments which maximise the re-use of vacant urban land.

GP2: requires all developments to make a positive contribution to the quality of the environment and the principles of sustainable development.

3.3: Safeguards the Green Belt as part of the wider West Midlands Green Belt.

ENV2 a): In the Green Belt there will be a presumption against the construction of new buildings except for the following purposes:

iv. Replacement of an existing dwelling provided that the new dwelling is not materially larger than the original dwelling.

ENV3: need to assess proposals for their impact on the Green Belt in terms of layout, siting and design.

3.113, 3.114 & 3.115: Seek good design and high quality architectural and landscape design to improve access, discourage crime and create a distinctive environment.

3.16: The Council will consider development in relation to its setting.

H3: Windfall Sites and Conversion of Existing Buildings

(a) The Council will encourage the provision of additional housing through the re-use of brownfield windfall sites and through the conversion of existing buildings.

H10: Layout, design and dwelling mix of housing. The Council will expect the design of residential developments to create a high quality living environment, well-integrated with surrounding land uses and local character, and in accordance with the principles of good design, provide adequate open space, or improvements to existing open space.

ENV14 & 3.9 the Council will encourage the development of previously developed land.

ENV18: The Council will ensure the protection, positive management and enhancement of existing trees and hedgerows.

ENV23: Nature Conservation and New Development – The Council will require the layout of all new development to take full account of existing features of value for wildlife or geology.

ENV32: Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.

T7: Car Parking

All development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision
4 bedroom houses and above 3 spaces per unit

Supplementary Planning Document (SPD)

Designing Walsall SPD

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources;

DW3 – Character -design to respect and enhance local identity;

DW6 – Legibility - new development should contribute to creating a place that has a clear identity;

DW10 – new development should make a positive contribution to creating a sustainable environment.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m² for housing. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

Natural Environment SPD

Identifies those features of the natural environment which the Council requires to be properly considered in proposed for development.

Regional Spatial Strategy for the West Midlands was published in June 2004. This is now part of the Development Plan, with the UDP. It seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy QE1 - Environment

Overall, these seek improvements the design and sustainability of the urban areas.

National Policy

PPS1: Delivering Sustainable Development - emphasises need to reject poor design and the need for sustainable development.

PPG2: Green Belt - advises on the control of development in the Green Belt and describes inappropriate development by definition as harmful to the Green Belt. There is a general presumption against inappropriate development in Green Belts; such development should not be approved except in very special circumstances. The replacement of existing dwellings need not be inappropriate, providing the new dwelling is not materially larger than the dwelling it replaces.

PPS9: Biodiversity and Geological Conservation - says that the aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. If significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

Consultations

Transportation – no objection.

Natural Environment – no objection subject to a condition requiring details of bat roosting features.

Landscape Officer – no objection subject to a condition requiring submission of the frontage layout and boundary treatment.

Tree Officer – no objection.

Public Participation Responses

Four letters have been received objecting to the application on the following grounds:

- Impact upon the shared drainage.
- Will block light to bedroom window of 144 Lichfield Road.
- Issues of overlooking and loss of privacy.
- Impact upon property values (Not a material consideration).

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

- Whether the application overcomes the previous reason for refusal in respect of:
 - o Impact upon the openness of the Green Belt
 - o Impact upon the character of the area
 - o Protected species
- Impact upon residential amenity
- Parking and access

Observations

Impact upon the openness of the Green Belt

The replacement of an existing dwelling need not be inappropriate development providing the new dwelling is not materially larger than the dwelling it replaces. The previous application was refused as the volume of the existing dwelling (including its previous extensions) would have been increased by 80%, therefore being materially larger and inappropriate development.

The previous application was for a two storey house with a loft in the roof space. The current application looks to raise the height of the bungalow's pyramid roof (by 2m) to provide accommodation space within the roof. There would be a marginal increase the footprint (by 9m²) and the volume of the bungalow (including its previous extensions) would be increased by 31%. The bungalow has an existing rear store and conservatory. The proposal's impact upon the openness of the Green Belt would be acceptable. A condition is proposed to remove permitted development rights for extensions and outbuildings which would ensure that no further built form takes place without full

assessment of a planning application. This is in accordance with the aims and objectives of the Green Belt.

Paragraph 1.4 of PPG2 states that the most important attribute of Green Belts is their openness, which can be interpreted as freedom from development. The area is characterised by ribbon development where street frontage is punctuated by small bungalows which maintain an open character to the Green Belt. The proposal would retain the punctuated space between dwellings by retaining the pyramid roof design and consequently retaining the open character.

Impact upon the character of the area

The previous application was refused on the grounds that the design of the house was unbalanced and unrelated to the surrounding development due to its height exceeding that of the next door semi-detached. The front door and porch was not central within the plot and hood detailing above the first floor windows was out of character.

The re-submission addresses this by having the highest part of the roof mid way between the height of the bungalow at 144 Lichfield Road and the semi-detached house at 148. This stepped arrangement would maintain an appropriate visual relationship between the dwellings. The porch has been omitted and the front door remains in the same location as the existing. Two bay windows to the ground floor front elevation are a local characteristic and the modest dormer windows, also characteristic, sit comfortably within the roof plane. The common building line would be maintained. It is therefore considered that the design now makes reference to the character of the area and would be appropriate within its context.

Protected species

Natural Environment no longer holds an objection. The bat report indicates that it is unlikely that bats will be affected by the proposed development. It notes that there is significant bat activity to the rear of the property. A condition is recommended to secure bat boxes in the house design.

Impact upon residential amenity

The proposal would project a further 1.3m to 2.5m at ground floor in comparison with the rear of number 148. This would not breach the Council's 45° code. The car port adjacent to number 144 would be removed. The car port's removal would increase light to the side facing window at number 144. The new house would be no closer to number 144 than the existing bungalow (2.6m) and would have no further impact on this window. No additional openings are proposed along this elevation with the existing kitchen door and window being replaced with a utility door positioned further away from the bedroom window. The increase in height of the side wall is considered to have no further impact on number 144. No side facing windows are proposed to the new dwelling. It is therefore considered that the proposal would have no further impact upon residential privacy or outlook.

Objections have been raised to the impact the proposal would have on the shared drainage. Severn Trent did not object to the principle of a replacement house in regards to impact upon the existing drainage subject to the imposition of a condition to provide full drainage details. While they have not commented on this application it is appropriate that their earlier condition is attached to any permission.

The rear garden of the proposal meets the Council's standard in length and area.

Parking and access

The UDP requires that the proposed 5 bedroom house would require a maximum of 3 parking spaces and the application looks to meet this standard through the drive to the front and side of the proposal. These areas would provide for the required number of spaces. Transportation does not object to the application.

Landscape raises no objection subject to the submission of the frontage layout and boundary treatment. Transportation does not object to the application as it is considered that the existing access arrangements are acceptable. However, boundary treatment to the frontage could be secured by inclusion of a condition.

Summary of Reasons for Granting Planning Permission

The increase in the size of the dwelling is not considered to be materially large enough to impact upon the openness of the Green Belt as the proposal maintains a level of space between dwellings. To retain this openness, permitted development rights for extensions and outbuildings has been removed. The design is appropriate and takes account of the context and character of the area, retaining space between first floors and relating well to the local height and building line characteristics.

Neighbour concerns about impact on drainage have been considered and a condition requiring drainage details has been applied. The proposal would have no further impact upon privacy or loss of light than the existing bungalow. It has been demonstrated that there would be no adverse impact upon protected species subject to compliance with the relevant condition.

The proposal accords with the aims and objectives of the Unitary Development Plan policies GP2, 3.6, 3.16, ENV2, ENV3, ENV32, H10, T7, T13 and Supplementary Planning Document Designing Walsall, Planning Policy Guidance 2 and Planning Policy Statement 1.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. No development shall take place until details of the materials to be used in the construction of the external walls and roof of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development.

3. Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed/occupied.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

4. No development shall commence until proposals to incorporate bat roosting features into the dwelling hereby approved has been submitted to and approved in writing by the Local Planning Authority. The proposals may provide access to bats to cavity walls or under roof tiles and/or incorporating purpose made Schegler-type roosting boxes into the fabric of the building. The approved scheme shall be incorporated into the development before any part is brought into use and retained thereafter.

Reason: To conserve local bat populations.

5. No development shall commence until details for the front boundary has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

6. No construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).

Reason: In the interests of adjacent residential occupiers

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or door openings other than those approved by this permission shall be installed in any part of this development without the prior approval of a planning application.

Reason: In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

8. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no extensions or alterations to the dwelling or the erection of buildings within the curtilage of the site, as defined in Classes A to E of the Order, shall be constructed without the prior submission and approval of a planning application.

Reason: To ensure the Local Planning Authority has control over the development in the interests of retaining the openness of the Green Belt and the amenity of occupiers of adjacent dwellings.

9. The dwelling shall achieve Code Level Three in accordance with the requirements of the Code for Sustainable Homes: Technical Guide (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that Code Level Three has been achieved.

Reason: In order to provide a high performance sustainable home and to protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policy GP2 of the Walsall Unitary Development Plan and policies DW1 and DW10 of Designing Walsall Supplementary Planning Document.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Departure from the development plan

Application Number: 09/1134/OL

Application Type: Regulation 4 Consent (w)

Applicant: Property Services

Proposal: Demolition of existing building and development of 3 houses.

Ward: Aldridge/Central & South

Recommendation Summary: Grant Permission Subject to conditions, unless additional information is received which raises material planning issues

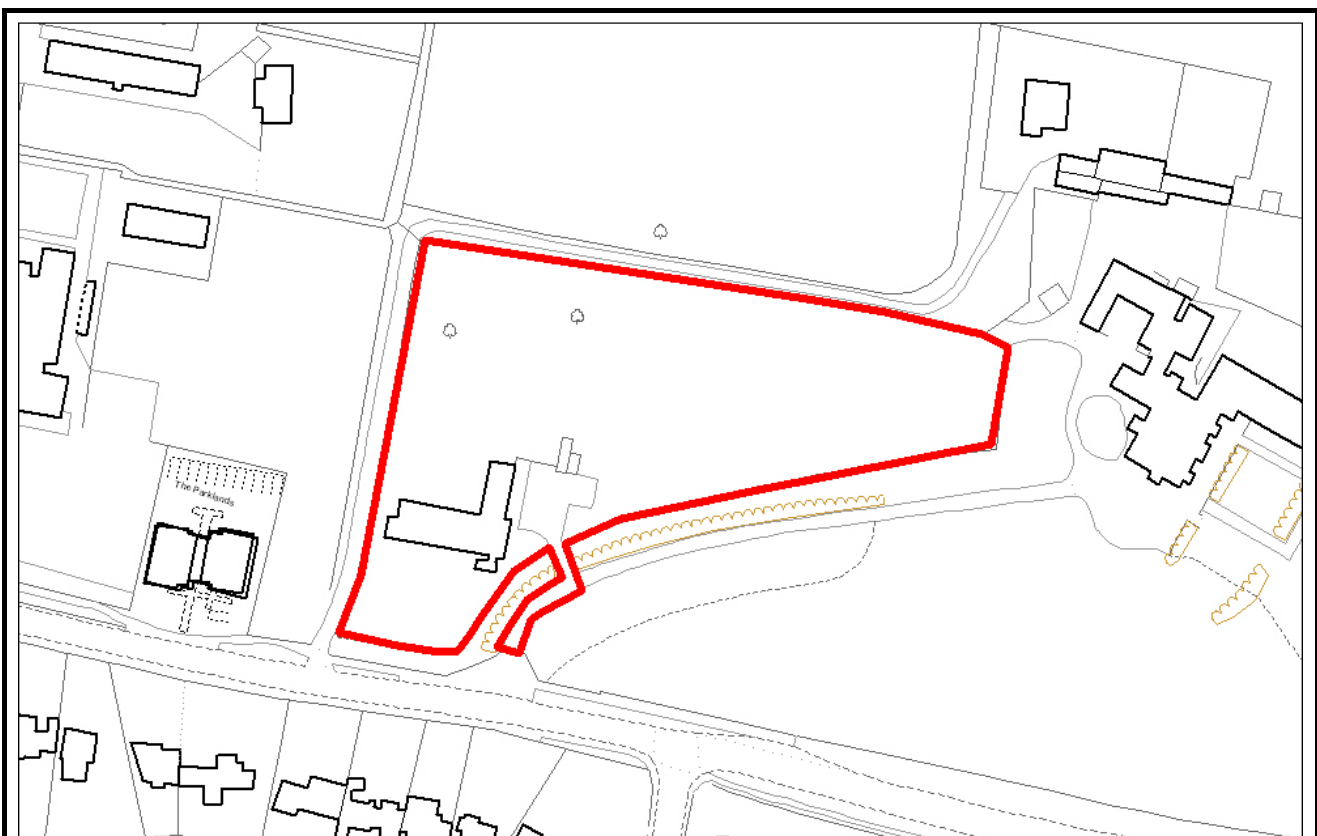
Case Officer: Andrew White (E10)

Telephone Number: 01922 652429

Agent:

Location: Former Beacon View
Children's Home, Little Aston Road,
Aldridge, Walsall, WS9 0NN

Expired: 22/10/2009



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Application and Site Details

This outline application is for the demolition of a 22 bedroom vacant children's home and the construction of 3 detached houses with a paddock. The children's home has been demolished. It was a 2 storey building with a footprint of 394 square metres, set back from Little Aston Road behind mature trees at the junction with the vehicular access to Aldridge Court Nursing Home. The vehicular access to the site also shares the same driveway to Aldridge Court Nursing Home. The proposal provides basic details including access, scale and layout. Each of the houses has a footprint of 131 square metres achieving a maximum ridge height of 7.5 metres. The application site is located within Aldridge Conservation Area and green belt land. In the immediate vicinity there is housing, an area of open space, a school and a nursing home.

The existing building was a utilitarian style 1960's grey/buff brick and concrete tile construction, set within a large mature plot with paddock land towards the eastern end of the plot. The children's home has been unoccupied since June 2005 and in a state of disrepair with evidence of vandalism including several fires making the structure dangerous, resulting in the need to recently demolish the building. The children's home is 7.8 metres in height to the ridge and 5.1 metres to the eaves with a footprint of 394 square metres.

The character of this side of Little Aston Road is spacious with trees and hedges to boundaries. There is a large nursing home and a sports ground set behind and off Little Aston Road, new flats fronting the road and a school in spacious grounds adjacent to the road. On the opposite side of the road there is a mix of differing age and design of dwellings in spacious plots with a continuous building line fronting the road.

Relevant Planning History

09/1135/CC Demolition of existing building and development of 3 houses- to be determined

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

GP1; Development will be guided by principles of sustainability, minimising need to travel by car, maximising the re-use of vacant land and buildings without prejudice of beneficial use of adjoining land or buildings.

GP2; Development schemes should, as far as possible, help to improve the environment of the Borough whilst not allowing development that has an adverse impact. Also regard to parts VIII, X, XII & XIII.

GP4; Council will promote and encourage local regeneration initiatives that revitalise the local economy, sustain centres, protect and enhance the natural and built environment. Also regard to parts III, IV & VII.

ENV2; (b) re-use of existing buildings in the green belt will be acceptable provided; not have a materially greater impact than the present use, does not involve any building extension or uses that conflict on the openness and purpose of the green belt, buildings

are of permanent and substantial construction, capable of conversion without reconstruction, form, bulk and design are in keeping with their surroundings.

ENV3; where development acceptable in principle in the green belt the council will also assess the proposals in terms of; layout, siting, design, grouping, height, scale, structures, associated outdoor equipment, colour, materials, opportunities to use redundant land and buildings for alternative uses, landscape and views.

ENV4; The redevelopment of major developed sites in the Green Belt may be permitted provided that:-

- i. this will have no greater impact (and where possible less impact) than the existing development on the openness and purposes of the Green Belt; and
- ii. the height of the existing buildings would not be exceeded; and
- iii. the area to be covered by buildings would not occupy a larger area of the site than the aggregate ground floor area of the existing buildings, unless this would achieve a reduction in height which would benefit visual amenity

ENV10; the Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows.

ENV14; the Council will encourage the reclamation and development of derelict and previously developed land

ENV22 development on sites used by protected species by European law and/or British legislation will not be permitted unless it can be demonstrated that the proposed development will not have an adverse impact.

ENV29 Development is expected to preserve or enhance the character and appearance of a conservation area in terms of the impact of the new buildings on special townscape, scale, massing, siting, layout, design and choice of materials

ENV32; Poorly designed development which fails to take account of the context or surroundings will not be permitted. Especially in conservation areas, town centre, visually prominent, adjacent to transport corridors including canals, railways, motorways and major roads. The quality of the proposal will assess appearance, height, proportion, scale, mass, materials, external space, safety, security and local character.

3.16 The Council will consider development in relation to its setting, with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

3.113 New development provides opportunities for high quality architectural and landscape design to contribute to the environmental and economic well-being of the Borough for the benefit of residents and visitors, alike. Good design responds positively and imaginatively to the context in which development takes place.

3.114 Good design can discourage crime and increase safety as well as accommodating the access requirements of all sections of the community.

3.115 the design of buildings and structures together with landscape design have a major role to play in the creation of an environment which is distinctive, creates a sense of place.

H3; Encouragement for the provision of additional housing through the re-use of previously developed windfall sites and conversion of existing buildings.

H10; The design of residential developments to create a high quality living environment, integrate with surroundings and local character in accordance with principles of good design.

T7; All parking provision should be well designed and sensitively integrated into the townscape or landscape, respecting the character of the local area, and with appropriate use of materials and landscape treatment

T13; All development should provide an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified. Relevant considerations to be taken into account are set out in Policy T7

Supplementary Planning Documents (SPD)

Designing Walsall SPD

DW1- Sustainability- New development should seek to simultaneously meet environmental, economic and community needs without compromising the needs of future generations

DW2- Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW3- Character- All new development must be designed to respect and enhance local identity

DW4- Continuity- Attractive spaces within new development should be defined or enclosed by buildings, structures and/or landscape

DW5- Ease of movement- All new development should contribute to creating places that are well connected, easy to get to and safe to move through

DW6- Legibility- New development should contribute to creating a place that has a clear image and identity and is easy to understand

DW7- Diversity- All new development should contribute to creating lively places that offer a mix of activities to the widest range of possible users

DW8- Adaptability- New development should contribute to creating flexible and adaptable places that can easily change over time

DW9- High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality

DW10- Well designed sustainable buildings- New development should make a positive contribution to creating a comfortable, adaptable and sustainable built environment

Natural Environment SPD

To fully assess, protect and secure compensatory planting for trees and for protected animals, plants etc.

Regional Spatial Strategy for the West Midlands (RSS 11)

Policies QE1, QE2, QE3, QE4, QE5 and QE6 seek to improve the quality of the environment whilst preserving quality and historic buildings and locations.

Black Country Core Strategy

The emerging Black Country Core Strategy aims to attract more affluent households.

National Policy

PPG2: there are 5 purposes for Green Belt;

- check unrestricted sprawl of built up areas,
- prevent neighbouring towns from merging,
- safeguarding the countryside from encroachment,
- preserve the setting and special character of historic towns and assist in urban regeneration,
- by encouraging the recycling of derelict and other urban land.

PPG 2 continues... the construction of new buildings inside the green belt is inappropriate unless for the following purposes:

- ... redevelopment of major developed sites identified in adopted local plans which meets the criteria,
- with safeguards, the re-use of buildings should not prejudice the openness of green belt, since the buildings are already there. The alternative to re-use may be a building left vacant and prone to vandalism and dereliction.

Annex A Land Management- Local Authorities can assist landowners in maintaining and improving land by working together. The aim should be to enhance the countryside and especially areas of land within the Green Belt or adjacent to it, which are suffering from disuse or neglect. This is particularly important in areas that are close to existing urban development, can be especially vulnerable to neglect or damage.

This site is not identified as a major development site in the green belt, but draws parallels with major development sites and it would be useful to test against Annex C.

Annex C Future of Major Developed Sites in the Green Belt-

C1 Green Belts contain some major developed sites such as... hospitals, and... education establishments. These substantial sites may be in continuing use or be redundant...

C2 These sites remain subject to development control policies for Green Belts, and the Green

Belt notation should be carried across them. If a major developed site is specifically identified for the purposes of this Annex in an adopted local plan or UDP, infilling or redevelopment which meets the criteria in paragraph C3 or C4 is not inappropriate development. In this context, infilling means the filling of small gaps between built development.

Redevelopment

C4 Whether they are redundant or in continuing use, the complete or partial redevelopment of major developed sites may offer the opportunity for environmental improvement without adding to their impact on the openness of the Green Belt and the purposes of including land within it... Redevelopment should:

- have no greater impact than the existing development on the openness of the Green Belt and the purposes of including land in it, and where possible have less;
- contribute to the achievement of the objectives for the use of land in Green Belts;
- not exceed the height of the existing buildings; and
- not occupy a larger area of the site than the existing buildings (unless this would achieve a reduction in height which would benefit visual amenity).

C5 The relevant area for the purposes of (d) is the aggregate ground floor area of the existing buildings (the "footprint"), excluding temporary buildings, open spaces with direct external access between wings of a building, and areas of hard-standing.

C6 The character and dispersal of proposed redevelopment will need to be considered as well as its footprint. For example many houses may together have a much smaller footprint than a few large buildings, but may be unacceptable because their dispersal over a large part of the site and enclosed gardens may have an adverse impact on the character of the Green Belt compared with the current development. The location of the new buildings should be decided having regard to the openness of the Green Belt and the purposes of including land in it, the objectives for the use of land in Green Belts, the main features of the landscape, and the need to integrate the new development with its surroundings. For instance it may be more appropriate to site new development closer to existing buildings.

C7 The site should be considered as a whole, whether or not all the buildings are to be redeveloped. The test of area in paragraph C5 relates to the redevelopment of the entire site; any proposals for partial redevelopment should be put forward in the context of

comprehensive, long-term plans for the site as a whole.

C8 Proposals should be considered in the light of all material considerations, including for example visual amenity... traffic and travel implications of redevelopment.

C9 Where buildings are demolished rather than being left in a semi-derelict state pending decisions about their redevelopment, it will be necessary to keep suitable records for the purposes of paragraph C5. These should be agreed between the local planning authority and the landowner.

Architectural and historic interest

C11 Suitable re-use is to be preferred to redevelopment where the buildings are of architectural or historic interest.

PPS3; Housing policy objectives provide the context for planning for housing through development plans and planning decisions. The specific outcomes that the planning system should deliver are:

- High quality housing that is well-designed and built to a high standard.
- A mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.
- A sufficient quantity of housing taking into account need and demand and seeking to improve choice.
- Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.
- A flexible, responsive supply of land – managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate.

PPS7: Sustainable Development in Rural Areas

Promotes sustainable patterns of development and sustainable communities in rural areas to ensure effective protection and enhancement of the environment, prudent use of natural resources and maintain high and stable levels of economic growth and employment. Para 19 The replacement of buildings in the Countryside should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion, for example where a new building would bring about an environmental improvement in terms of the impact on its surroundings and the landscape.

PPG 15: Planning and the Historic Environment- It is fundamental to the Government's policies for environmental stewardship that there should be effective protection for all aspects of the historic environment.' In exercising conservation area controls, local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the area in question;... account should clearly be taken of the part played in the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole... The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area... In less clear-cut cases - for instance, where a building makes little or no such contribution - the local planning authority will need to have full information about what is proposed for the site after demolition. Consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment... In the past, ugly gaps have sometimes appeared in conservation areas as a result of demolition far in advance of redevelopment.'

Consultations

Transportation – No objections subject to safeguarding conditions

Pollution Control (Scientific Team) – No Objections

Pollution Control (Contaminated Land) - No specific contaminated land requirements

Conservation- supports the demolition

Ecology- *(to be updated at committee)*

Environmental Health- no adverse comments

Landscape- No objections subject to safeguarding conditions

Police Architectural Liaison Officer- No objections. Dwellings to meet secure by design principles

Fire Officer- No objections

Public Rights of Way- No objections, retention of fence and conifers along the boundary of right of way.

Public Participation Responses

Three letters received raising the following comments;

- no objections in principle to three houses and removal of current vandalised building
- presumption against development in the green belt, in particular proposed buildings not on same footprint,
- Beacon View created a gap in the hedge to the track, concerned its retained as a hazard,
- No gates or access onto the drive along the western boundary because this would create vehicle/pedestrian conflicts
- concerned about access to nursing home during construction (*not a material planning consideration in this instance*),
- object to the paddock at eastern end of the site,
- access by large vehicles and horses conflicting with the nursing home traffic,
- noise at odd hours, smell, and disturbance from horses,
- manure increases vermin and flies,
- not clear who owns the paddock, would it be linked to plot 'c'
- means of enclosure for the paddock to secure horses deter from the current boundary of trees,
- although only outline application, paddock would require stables/amenity for horses and detract from the scheme,
- plenty of surrounding paddocks to cater for horses so paddock not needed in this instance,
- paddock in the green belt and conservation area would there be restrictions for shelters and storage of machinery

Determining Issues

- Are there any very special circumstances to justify inappropriate residential development in the green belt
- Impact on the character and amenity of Conservation Area
- Ecology
- Access
- Provision of a paddock

Observations

Are there any very special circumstances to justify inappropriate development in the green belt

Whilst the redevelopment of the former children's home is not an allocated major developed site in the green belt, as defined in the development plan, it does share many parallels, therefore it is considered, that testing the proposal against Annex C of PPG2 would be appropriate in this instance. The use of the existing building falls within planning class use C2 (residential institutions) which can include residential schools, colleges, hospitals and convalescent/nursing homes. These uses reflect Annex C of PPG2 major developed sites in the green belt.

It is appropriate to consider the fall back position in this instance. The legitimacy of the footprint of the existing building has been demonstrated through the submission of the supporting information in the planning application, even though it has been demolished for safety reasons, the building was in recent time of substantial construction and could have been re-used or converted for uses other than its original use without further alteration.

PPG2 suggests that dispersing the footprint over many smaller houses and enclosing their gardens may have an impact on the green belt. The proposal includes a degree of dispersal because the existing footprint is divided into three large houses rather than many smaller houses, it is considered that this would have limited impact on the openness of the green belt as the space between the proposed houses would allow greater opportunity through safeguarding conditions to achieve appropriate boundary treatments, such as hedges and post and rail fencing. In addition, the replacement of Beacon View building on the frontage with a single dwelling would improve views into and through the site and the green belt whilst the other two houses would be screened by existing tree belts to the boundaries of the site giving a feeling of spaciousness. Materials for the proposed development have been suggested in the design and access statement to reflect the local character and include; brick, stucco, timber and slate/plain clay roof tiles. The location of the site is 250 metres from Aldridge District Centre which provides a wide range of shops and services as well as access to a good range of public transport routes, making the site a sustainable location. The buildings have now been demolished because of the level of vandalism that has taken place making the structure of the building unsafe. As part of the planning application submission, a detailed photographic survey has been submitted, including copies of the original architectural plans and details of the size of the building. It is considered this information combined with this permission would be enough to retain re-development rights.

In reviewing Annex C of PPG2, and ENV 4 of the UDP, it is considered that the proposal meets the criteria to such an extent so as to constitute very special circumstances. This position is based on the lack of any increased impact on the openness and character of the green belt, beyond that which was associated with the previous use, when tested against the Annex C and ENV 4 criteria.

- No higher
- Less impact than the existing large building
- No larger building footprint
- Reduced height
- The proposed use reduces the intensification

- Consistent with GP2 and ENV 3

It is considered that the grant of permission for this individual case would not alone constitute a departure from the development plan requiring referral to government office.

The principle of delivering three larger detached dwellings instead of converting the existing building to flats or smaller houses meets an aspiration of the Black Country Core Strategy to provide larger aspirational houses to attract/retain social class A/B households within the borough. There currently is a shortage of suitable aspirational housing within the borough to meet this requirement which is considered to be a material consideration in determining this application in the green belt. Aspirational housing can be defined as at least 250 square metres of floor-space (the proposal would provide 262 square metres of floor space for each house or a footprint of 131 square metres), each house to include at least 5 to 6 bedrooms, lounge, dining room, sitting room, office or study, possible swimming pool or tennis court, games room or home cinema or paddock. The buildings should be of bespoke design with high quality architecture and landscaped garden. Because the development is within the green belt and within a conservation area, it is reasonable for the planning authority to remove permitted development rights for extensions and garden structures. It is expected that any reserved matters applications or full application that follows this outline application, the extent of each buildings footprint would be no more than 131 square metres.

Impact on the character and amenity of the Conservation Area

The demolition of buildings in conservation areas, are not normally allowed unless a contract for the rebuilding has been let. This ensures that the conservation area is not harmed by creating an unsightly gap with the cleared land. However, in this case it is considered that the existing building makes little or no architectural or historical contribution and has attracted significant vandalism resulting in the building becoming a dangerous structure. The building detracted from the overall character and appearance of the conservation area, with its utilitarian appearance at odds with the wider context, poor use and mix of materials including concrete tiles set on a low pitched roof and facing materials including grey/buff brick, and plastic windows. The building had, in a bid to reduce the instances of vandalism, also had the ground floor openings sealed with varying materials, further eroding the appearance of the building in the conservation area. By contrast the gardens of the home provide an attractive mature appearance, that are partly available to view from the road or from neighbouring properties. The demolition of the building would allow views into the site, which would make a positive contribution to the appearance and character of the conservation area sufficient to negate the need for the applicant to promote full details of redevelopment at this early stage for the site.

In-addition, the applicants outline application for residential redevelopment includes access, layout and scale to be considered including a layout plan and basic elevations to give and scale/mass of the proposed dwellings and their location on site. It is considered this provides enough information in this instance to allow an assessment of the impact on the conservation area and is considered, that the proposal would have a positive contribution compared to the existing situation.

Ecology

The applicants have provided a bat survey that did not find bats within the building. The applicants have also provided an ecological survey of the site. A range of ecological investigations were carried out to establish the ecological significance of the site. The site was found to contain habitat features of ecological value and both bats and badgers use the site, although no roosts or setts were found within the site. Despite these findings, there are no ecological reasons why the development proposed could not proceed, providing protection and enhancement measures are incorporated into the development.

Access

As part of the outline application, the applicants have asked that access is considered. The access point is the same location as Beacon View Children's Home. It is considered that the existing planning class use D2 would have a greater impact from a highway safety issue than 3 houses and a paddock. There are no proposals for separate access points to be created elsewhere to or from the site because of impacts on the ecological value of the flora and fauna. Therefore, it is considered in this instance, that the access is satisfactory.

Provision of a paddock

The planning application defines a paddock in the eastern corner of the application site. This is to reduce the residential curtilage of the application site and would accord with green belt policies in stopping the spread of development. The paddock meets green belt policy and also contributes to the developments aspirational status. Issues of structures to be erected on site for horses can be controlled by suitable conditions although, the paddock is screened from the nearby nursing home by a belt of trees, it is considered that any future structure required in relation to the paddock use would have a limited impact visually on neighbours. Issues regarding noise, disturbance, smell and fencing of the site to retain horses have been considered. It is unlikely there would be significant noise from one or two horses on the site disturbing nearby residents and given the ecological survey identified foxes using the site, it is considered there would likely to be greater noise from a fox calling at night than a horse causing disturbance. Smell from manure being stored on site. It is unlikely that one or two horses at a maximum on site would generate the levels of manure that would cause offence. The storage of manure is managed/controlled through environmental legislation that can be used to minimise any impacts such as smell and vermin.

Summary of Reasons for Granting Planning Permission

Whilst it is recognised that development represents inappropriate development in the Green Belt it is considered that the existing site has parallels with the issues raised by redevelopment of major sites in the green belt and satisfies the criteria in PPG2 Annex C and UDP Policy ENV4. This, together with the 'fallback position' of the existing use amounts to 'very special circumstances' sufficient to outweigh the technical harm caused by inappropriate development in the green belt.

The proposed demolition of the existing poor quality untidy and vandalised building and the erection of three detached dwellings, whilst increasing dispersal of the footprint, is considered to have no greater impact on the green belt. The immediate impression of the site would be of the original building being replaced with a smaller house providing a feeling of spaciousness, whilst the other dwellings would be largely screened by the belt of trees around the site. It is considered to have no additional adverse impact on the

openness and character of the Green Belt than the original building and does not harm the visual amenity of the Green Belt. In addition, the provision of larger aspirational houses to attract/retain social class A/B households meets the aims and objectives of the Council and is a material consideration in determining the application.

The existing building had little or no architectural or historic contribution to the conservation area with its utilitarian appearance at odds with its wider context and provided a building that suffered repeated issues of vandalism becoming a dangerous structure. It is considered that the proposal for three houses would enhance the conservation area and the appearance of the application site.

The sites habitat features have ecological value with bats and badgers using the site. Despite this, it is considered there are no reasons the development proposal should not proceed subject to protection and enhancement measures incorporated into the development and that no new vehicular/pedestrian access added through the existing trees/hedges.

The development includes access as a determining issue and because the access point is the same location as the original children's home, it is considered that three houses and a paddock would have significantly less impact on highway safety than the children's home use.

The provision of the paddock reduces the residential curtilage and adds to the aspirational status of the development and issues such as noise, smell and the provision of amenity for the keeping of horses are unlikely to impact on neighbours amenity, because of the separation distances and the existing tree belts to the boundaries. Environmental legislation deals with the storage and disposal of horse manure and the control of vermin.

The proposed development is considered to accord with the aims and objectives of Green Belt policy and objectives of the development plan, in particular policies GP1, GP2, GP4, ENV3, ENV4, ENV10, ENV14, ENV22, ENV29, ENV32, 3.16, 3.113, 3.114, 3.115, H3, H10, T7 and T13 of Walsall's Unitary Development Plan (2005), Designing Walsall and Natural Environment Supplementary Planning Guidance, Regional Spatial Strategy for the West Midlands, Black Country Core Strategy and National Planning Guidance PPG2: Green Belts, PPS3: Housing, PPS7: Sustainable Development in Rural Areas, PPG15: Planning and Historic Environment

Recommendation: Grant Permission Subject to conditions, unless additional information is received which raises mater

1. Application for approval of the Reserved Matters shall be made within 3 years of the date of this decision. The development must be begun not later than;
 - (i) 3 Years from the date of decision
 - (ii) 2 years from the approval of Reserved Matters or in the case of approval of the last reserved matter.

Reason: pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

2. This development shall not be commenced until details of the following Reserved Matter has been submitted to and approved by the Local Planning Authority:

- (a) Appearance
- (b) The landscaping of the site.

Reason: pursuant to Article 7 (1) of the Town and Country Planning General Development Order 1988.

3. This development shall not be carried out other than in conformity with the following approved plans and documents except in so far as may otherwise be required by conditions: -

- Location Plan received 27th August 2009
- Proposed Block Plan (reg/200/01) received 27th August 2009
- Proposed Indicative Elevations (reg/200/02/A) received 27th August 2009
- Design & Access Statement received 27th August 2009
- Tree Report of 10th July 2009 received 27th August 2009
- Ecological Appraisal of September 2009 received 18th September 2009
- Survey of building for bats of July 2009 received

Reason: To ensure the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted (except in so far as other conditions may require).

4. No development shall commence until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the facing and roofing materials harmonise with those in the surrounding vicinity.

5. No development shall be carried out until full details of existing and proposed levels of the site, access way and floor levels for the proposed dwellings, have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site and any drainage or other works necessary to facilitate this development. The development shall be carried out and retained in accordance with these approved details.

Reason: In the interests of the amenity of the area and to ensure satisfactory development of the site.

6. No development shall commence on site until details of the disposal of both surface and foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

Reason: To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding and pollution.

7. Prior to the commencement of the development a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing the vehicular access drive widened to 4.1m to allow two-way traffic movement. The revised access shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To maintain highway safety.

8. Prior to the commencement of the development details of how the houses meet secure by design principles shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be thereafter implemented and retained in accordance with the approved details.

Reason: To ensure the development helps prevent crime and measures to create a safer environment

9. Prior to the commencement of the development a revised plan shall be submitted to and approved in writing by the Local Planning Authority illustrating all access-ways, bin hard standing area near the access to the site, parking areas including space for a fire appliance to turn around and leave the site in a forward gear. All hard-standing shall be fully consolidated, surfaced and drained and shall be installed and thereafter be retained for this purpose.

Reason: To ensure availability of adequate off-street parking and fire service access.

10. Prior to the commencement of the development a detailed landscaping shall be submitted to and approved in writing by the Local Planning Authority that includes; details of proposed garden boundary treatments, development site boundaries, takes account of the ecological appraisal enhancing and reinforcing the existing habitats. The agreed scheme shall be implemented within 12 months of the development completed, unless otherwise agreed in writing with the Local Planning Authority. All planting shall be maintained for a period of 3 years from the full completion of the scheme. Within this period any trees, shrubs of plant which dies, becomes seriously diseased, damaged or is removed shall be replaced with a tree. Shrub or plant of the same or greater size and same species as that originally required to be planted.

Reason: In order to define the permission and to safeguard the visual amenity of the conservation area, green belt and natural environment of the area.

11. No development shall commence on site until the boundary details have been submitted to and approved in writing. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development and to secure the site.

12. The three dwellings hereby approved shall not have a footprint greater than 131 square metres and a ridge not higher than 7.5 metres.

Reason: In order to safeguard the amenity of the green belt

13. No external lighting shall be installed on the site unless or until details have been submitted to and approved in writing by the Local Planning Authority. Any details of external lighting approved by the Local Planning Authority shall be installed in accordance with the approved details and retained as such.

Reason: To safeguard the visual amenities of the area.

14. None of the existing trees on the site shall be lopped, felled or root pruned without the prior consent in writing of the Local Planning Authority.

Reason: To safeguard the trees in the Conservation Area on site.

15. The approved tree protection measures and fencing detailed in the Arboricultural Report dated 10 July 2009 shall be fully implemented prior to the commencement of any works on site and shall be retained until the completion of the development. The land so enclosed shall be kept clear of all contractors' materials and machinery at all times, as laid out in British Standard 5837:2005.

Reason: To safeguard the trees in the Conservation Area on site.

16. During demolition, site preparation and building operations no storage of materials, equipment or waste, nor passage of vehicles, nor lighting of fires shall take place beneath the canopy of any tree to be retained.

Reason: To safeguard the trees in the Conservation Area on site.

17. No digging of trenches or changes in ground level shall be undertaken within the canopy of any tree to be retained on the site without the written approval of the Local Planning Authority.

Reason: To safeguard the trees in the Conservation Area on site.

18. The tree/bramble/ever green hedge buffer to the north/east and southern boundaries of the application site shall be retained and maintained at all times.

Reason: To safeguard the visual amenities of the conservation area, green belt and the wider area.

19. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no development within Schedule 2, Part 1, Classes A, B, C, D, E, F and G of to the Order shall be carried out to the dwellings or on the site, as appropriate, without the prior submission and approval of a planning application.

Reason: To enable the Local Planning Authority to retain effective control over future development of this site and the Green Belt.

20) No demolition, engineering, or construction works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between

the hours of 07.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

Reason: To protect the amenity of neighbouring occupiers.



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Has been called in by Councillor Arif

Application Number: 09/1067/FL

Application Type: Full application

Applicant: Mr & Mrs Singh/Kaur

Proposal: Retain Boundary Wall

Case Officer: Stuart Crossen

Telephone Number: 01922 652486

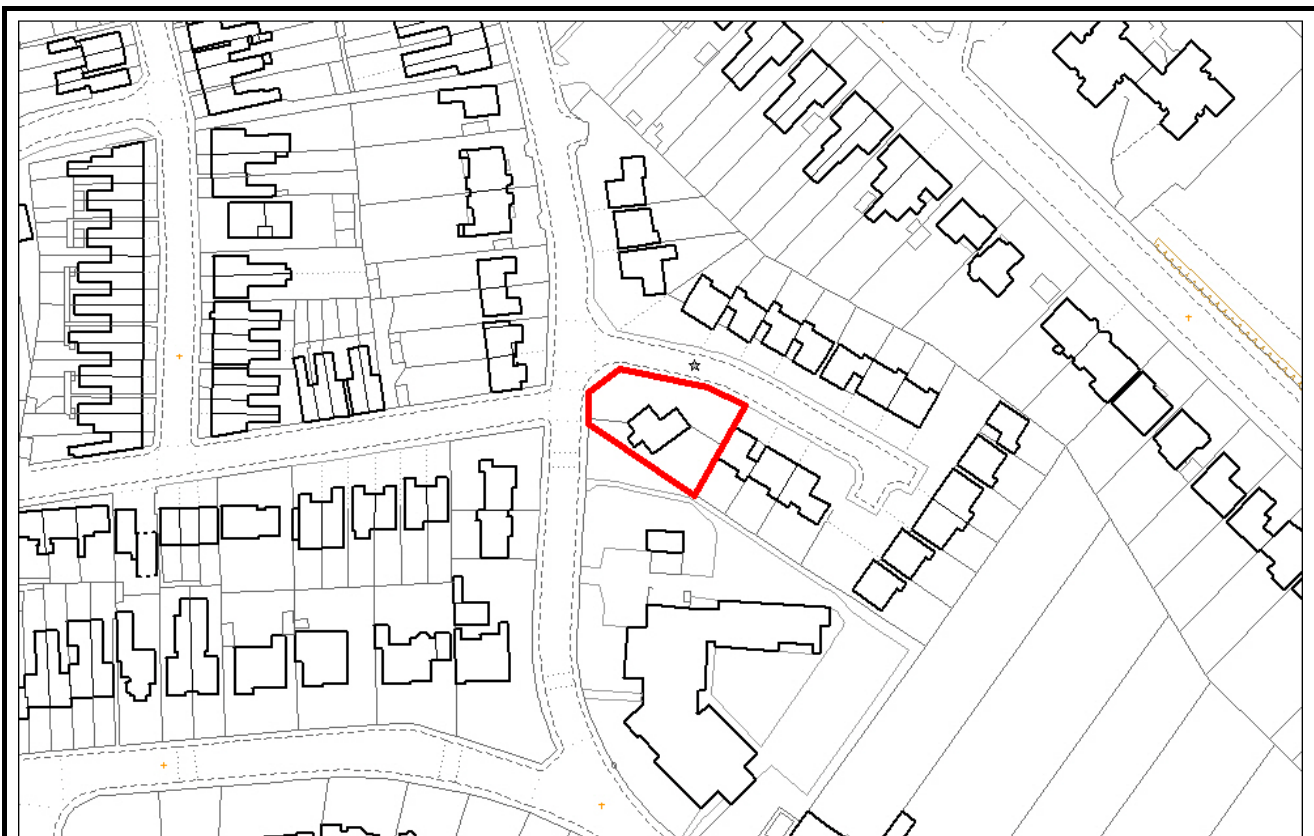
Agent:

Location: 2 MANDERVILLE
GARDENS, WALSALL, WS1 3AT

Expired: 01/10/2009

Ward: St. Matthews

Recommendation Summary: Refuse



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Background

Councillor Arif has called the application before committee because he considers that under permitted development rights the applicant can build the wall up to 1 meter in height anyway. The applicant WILL remove 1 course of bricks from the pillars on 1 section of the wall to reduce the height. The pillars are 3 bricks higher than permitted development and having these ornamental concrete base and ball on top of pillars adds to the character of the area.

The reason the wall is needed is provide privacy and protection to front garden from pupils, parents and vehicles resulting from the primary school next door.

Application and Site Details

This is a partly retrospective application for a front boundary wall measuring 1 metre high with pillars increasing the overall height to between 1.08 & 1.45 metres. The application also proposes approximately 200mm high concrete ball tops on the pillars. The wall is made from a dark orange brick with engineering grey coping bricks along the top.

The property is a 1960's design detached house on the corner of Mandeville Gardens and Jesson Road with access from Mandeville Gardens.

The houses in Mandeville Gardens are all 1960's designed detached houses. Jesson Road is a mixture of Victorian and Edwardian styled semi-detached and detached houses many have rustic brick built walls defining their boundaries.

There is a school adjoining, behind a 1.8 metre brick wall which pre dates the school and belonged to the previous house on the school site. The wall also adjoins the boundary wall at number 4 Mandeville Gardens which is similar in colour but measures less than 500mm high.

Relevant Planning History

None

Relevant Policies

(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site:

http://www.walsall.gov.uk/index/environment/planning/unitary_development_plan.htm

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

- (a) Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted.
- (b) When assessing the quality of design of any development proposal the Council will use some or all of the following criteria:-
 - The appearance of the proposed development.
 - The height, proportion, scale, and mass of proposed structures.
 - The materials proposed formeans of enclosure.
 - The visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.
 - The effect on the local character of the area.
 - The integration of existing natural and built features of value.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

Supplementary Planning Document

Designing Walsall

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address.

National Policies

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Consultation Replies

None

Public Participation Responses

An objection has been received from the occupier of number 12 Mandeville Gardens on the grounds that the proposal would spoil the open nature of Mandeville Gardens, that the wall is disproportionately high and that a precedent may be set for further similar types of development. Furthermore a covenant between the home owners and Maxim Homes was signed when the houses were originally bought and all occupants within Mandeville Gardens have been happy to maintain their open frontages, However no details have been provided of what restrictions this covenant has were given in the objection.

The occupier of number 6 has objected to the proposal and considers that it is too high and changes the open character of the close. Furthermore, that other houses, have refrained from adding fences or walls as specified in the original deeds of all houses on the close.

The occupier of number 19 has objected to the proposal citing that it has a detrimental environmental effect on the whole close.

Determining Issues

- Impact on the character and amenity of the area;

Observations

Impact on the Character and amenity of the area

Although Mandeville Gardens is open plan, a 1m high wall could be erected without the need to apply for planning permission.

The retention of the wall and proposed concrete balls on top of the pillars would appear very bold, and would dominate the entrance to the open plan cul de sac of Mandeville Gardens, which has a distinct absence of walls. Even recognising the permitted development allowance for a 1 metre high wall, the concrete balls and the overall height of the wall, would unacceptably change the character of the cul-de sac and would be out of character with the simple lines of the 1960's house design it fronts, and the houses in Mandeville Gardens. The proposal would have a detrimental impact on the character of the area.

In relation to Jesson Road, walls are a common feature, and the wall subject of this application is actually attached to the boundary wall of the neighbouring school which is much higher. However the height of the pillars with concrete ball tops would be an unusual and prominent feature along Jesson Road which is considered to be detrimental to the character of the area.

Any breach of any covenants caused by the erection of the wall is a civil matter and not a matter that has any bearing on the planning merits of the case.

Recommendation: Refuse

1. The front boundary wall with concrete balls on top of pillars, would appear very bold, dominating the entrance to the open plan cul de sac of Mandeville Gardens and would be out of keeping with the design of the existing house and the neighbouring houses. The development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall."
-



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and
Building Control, Regeneration
Directorate on
08 Oct 2009

REASON FOR BRINGING TO COMMITTEE: Requires Delicate judgement

Application Number: 09/0875/FL

Application Type: Full application

Applicant: Mr Graham Tite

Proposal: Proposed front porch and conservatory to rear.

Ward: Aldridge/Central & South

Recommendation Summary: Grant Subject to conditions

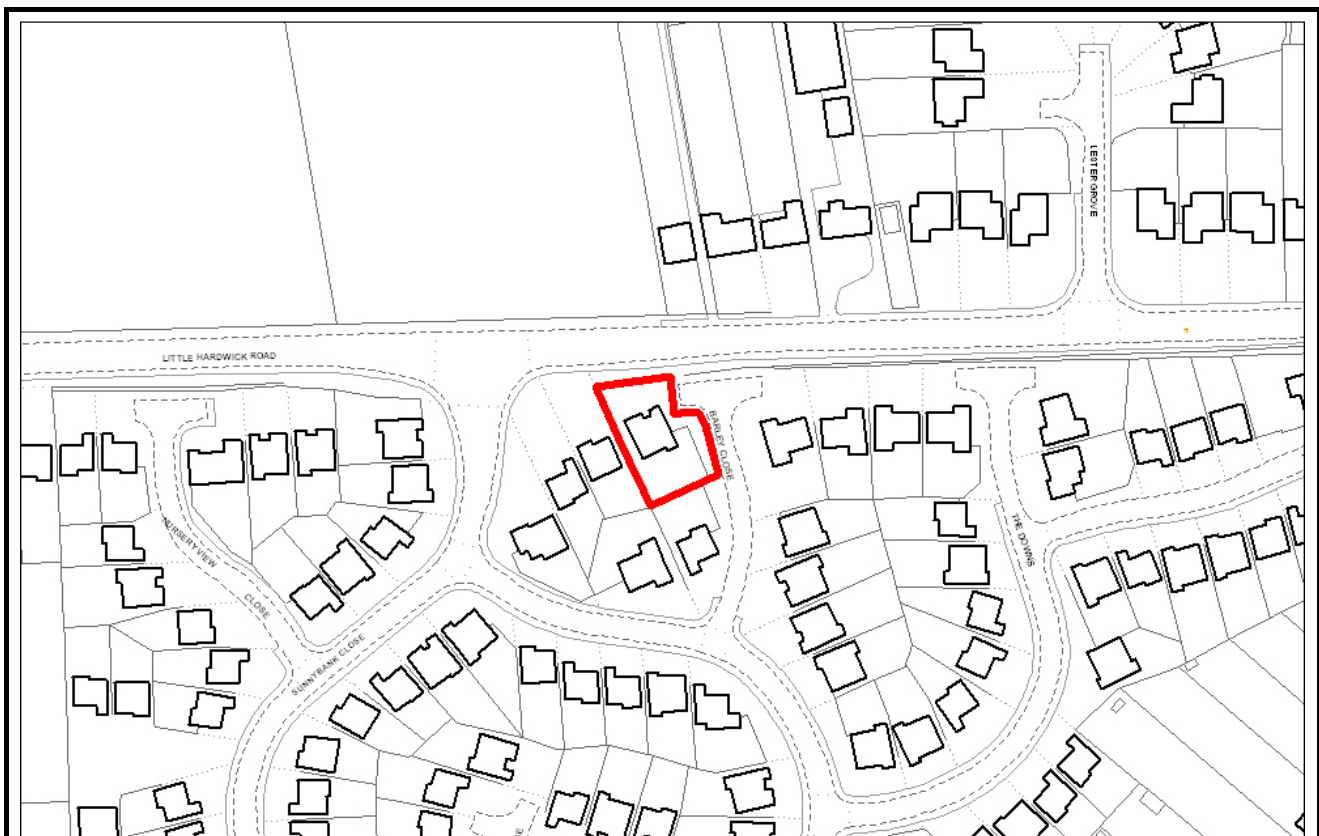
Case Officer: Jenny Townsend

Telephone Number: 01922 652485

Agent:

Location: 3 BARLEY
CLOSE, ALDRIDGE, WS9 0YS

Expired: 25/09/2009



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Application and Site Details

This application is for a porch to the front of this modern detached house and a conservatory to be added at the rear.

The porch would infill a recessed open area between the front of the house and the garage projection to be in line at the front with both. The whole of the front of the porch would be glazed, with double doors and a full height glass panel alongside. A 2.4 metres high flat roof is proposed which would tie into the existing sloping roof at eaves height.

The conservatory would be 3.9 metres long, 3.7 metres wide and have a pitched roof. Each elevation is proposed to be glazed panels above 0.8 metre high wall except for the side elevation facing towards the boundary wall which lies set back from the side of Barley Close to the east of the application house, which is to have a pair of doors leading out into the garden.

The rear of the application house is approximately 0.3 metres to the rear of number 1 Sunnybank Close, the neighbour to the west. Both houses are set in approximately 2.5 metres from the boundary so that the gap between them is approximately 5 metres. The conservatory is proposed to be positioned on the side of the house nearest to number 1.

Number 1 Barley Close lies directly to the rear and is slightly higher in level and has habitable room windows at both ground and first floor level. The distance between the rear of the houses is currently approximately 22.5 metres. There is a 1.8 metre high close board fence on the boundary between them with a hedge belonging to number 1 approximately 1.0 metre higher.

Relevant Planning History

Planning permission for the original estate development removed permitted development rights for extensions. There is no planning history for the application site, but relevant adjacent history.

BC31417P Conservatory to rear. Granted subject to Conditions 19/12/90 at number 54 Sunnybank Close which is a bungalow which directly faces the rear of number 1 Sunnybank Close. The distance between the rear of the conservatory and the rear of number 1 has been reduced to approximately 16.5 metres as a result.

(09/0395/FL - A recent planning appeal for a conservatory at 3 Coppice Oak, Willenhall was allowed with a reduced separation distance of 18.3 metres to first floor rear facing habitable room windows in the house to the rear, 4 Edmoor Close. The Inspector considered that as there was a 2 metre high rear boundary fence and mature planting at the end of number 4, this strong intervening boundary treatment and opaque roof of the conservatory would minimise overlooking and would not have a significant adverse impact upon the privacy of the occupiers of either property).

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)

PLANNING POLICY STATEMENT 1

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

Unitary Development Plan Policies

GP2: Environmental Protection

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

VII. The adequacy of the access, and parking.

ENV32: Design and Development Proposals.

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

H10: Layout, Design and Dwelling Mix.

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Guidance and Supplementary Planning Documents relating to residential design.

Designing Walsall – Supplementary Planning Document

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

24m separation between habitable windows in two storeys (and above) developments. This standard will be applied more robustly at the rear than across roads at the front.

Consultations

Pollution Control Scientific Team – No comments.

Pollution Control Contaminated Land Team - This property is within 250 metres of a closed landfill site known to be producing landfill gas. Superficial spike testing in the area has not identified the presence of elevated levels of ground gas, however buildings constructed during the initial development of this estate had ground gas ingress prevention measures incorporated into the foundation and floor design.

Any new structure must include measures to a similar standard and must not compromise the integrity of existing arrangements. A condition and advisory note can be added to address this.

Public Participation Response

None.

Determining Issues

- the impact on the amenities of nearby residents

Observations

Impact on the amenities of nearby residents

The conservatory would project approximately 4.2 metres beyond the rear of the house next door at 1 Sunnybank Close. However, the gap of approximately 5 metres between the houses means that there would be little impact on the rear of number 1 from the conservatory.

The side elevation facing towards number 1 would have clear glazed panels. The 1.8 metre high fence on the boundary would screen the side of the conservatory and continue to prevent overlooking between the rear of the houses.

The distance between the rear of the conservatory and the first floor part of number 1 Barley Close, the house to the rear, would be reduced to approximately 18.5 metres which would be 5.5 metres less than the minimum required by policy.

The boundary fence and hedge belonging to number 1 currently screens most of the rear elevation of number 1 from the view of the occupiers of the application house when they are using the rear patio area. As this is where the conservatory is to be sited, this would continue to be the case and overlooking between the rear windows of number 1 and the proposed conservatory would be avoided, maintaining the privacy of the occupiers of both houses.

Previously planting along a boundary, especially that which is not in control of the applicant, cannot normally be relied upon to provide a permanent screen to protect the privacy of houses directly facing each other. Recent Planning Inspectorate decisions have allowed the separation distances between facing rear windows to be reduced to 6 metres less than the minimum standard because there is a planting screen between the houses. As Committee is aware, such decisions are a material consideration in similar cases. In

this case, the hedge belonging to number 1 is particularly thick and robust and provides a solid screen above the top of the fence.

The neighbouring house, number 1 Sunnybank Close backs onto the rear garden of number 54 Sunnybank Close, a bungalow which has a conservatory to the rear. Planning permission was granted for this in 1990 and even though the policy in place at the time required less separation than the current policy, the resulting separation distance of approximately 16.5 metres was still less than the minimum required, and is 2 metres less than the current proposal.

The proposed conservatory would be permitted development except that a condition on the original estate permission requires an application to be submitted so that development could be controlled. However given the changing situation with regards to permitted development (longer lengths are now allowed) and appeal decisions and the existing planting screen between the houses, on balance the proposal would be acceptable and in line with decisions currently being made by the Planning Inspectorate.

The size and design of the proposed porch infilling a recess between the garage and the front of the house is considered acceptable in this instance.

Summary of Reasons for Granting Planning Permission

The appearance of the proposed porch is acceptable and takes account of its surroundings. The position of the conservatory in relation to the adjoining dwellings will cause little additional overlooking, loss of privacy, or loss of daylight or sunlight to these properties, and it will comply with the numerical guidelines in the SPD.

The application is therefore considered to meet the aims and objectives of Walsall's Unitary Development Plan, in particular policies GP2, ENV32, and H10, and the Supplementary Planning Documents "Designing Walsall" and other material planning considerations.

Recommendation: Grant Subject to conditions

1. This development must be begun not later than 3 years after the date of this decision.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended.

2: The facing bricks of the conservatory shall match those which are used in the existing building at the time of this application, and shall be retained as such after completion of the conservatory, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the satisfactory appearance of the development and to comply with policy ENV32 of Walsall's Unitary Development Plan.

3: The side elevation of the conservatory facing the boundary with number 1 Barley Close shall comprise opaque glazing, details of which shall be submitted to and approved in writing by the local planning authority before the development is first occupied and thereafter retained as such, or solid panels, unless a solid fence or wall at least 1.8 metres high is retained on the boundary at all times.

Reason: To safeguard the amenities of the occupiers of adjoining premises and to comply with policy GP2 of Walsall's Unitary Development Plan.
